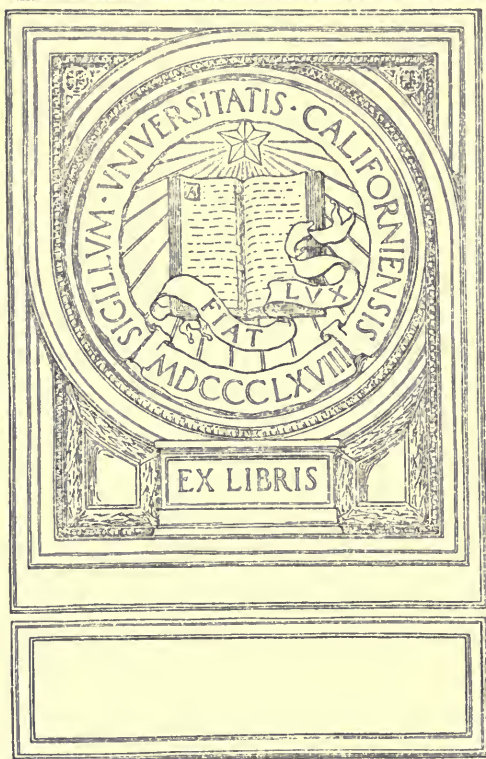




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# **LORD HOBHOUSE**

**A MEMOIR**







*Arthur Hobhouse, æt. 35.,  
from a crayon sketch by G. Richmond, R.A.*

# A MEMOIR

BY

L. T. HOBHOUSE

AUTHOR OF 'MIND IN EVOLUTION,' ETC.

AND

**J. L. HAMMOND**

**AUTHOR OF 'C. J. FOX : A STUDY, ETC.**

‘Justum et tenacem propositi virum  
Non civium ardor prava iubentium  
Mente quatit solida’

LONDON

EDWARD ARNOLD

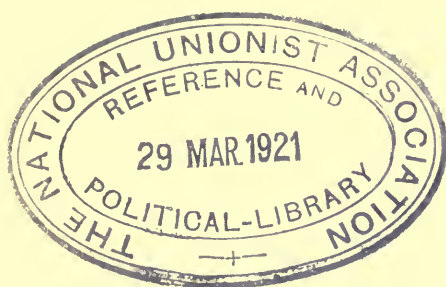
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## PREFACE

THIS Memoir was undertaken at the desire of the late Lady Hobhouse, and since her death in May last has been continued in accordance with what were believed to be her wishes, namely, to give in brief compass a permanent record of her husband's work, and of his thoughts on many questions of public interest to which he had given close attention. The Editors have received great assistance from many of Lord Hobhouse's friends, who have allowed them the use of private letters, and in some cases contributed impressions and appreciations of Lord Hobhouse's work. Most of these obligations are acknowledged in the text, but they wish to record here their very special debt to Sir Dennis Fitzpatrick, who has most generously put at their disposal his intimate knowledge and experience of Lord Hobhouse's life and work in India. It is due chiefly to him that the Editors have been able to give so full a picture of this part of Lord Hobhouse's career. They have also to thank Lady Jenkyns for the use of letters written by Lord Hobhouse to his nephew Sir Henry Jenkyns; Mr. Gomme for supplying materials for the description of Lord Hobhouse's work on the London County Council; and the Right Hon. Henry Hobhouse, M.P., for many valuable suggestions at every stage of the work.

*October 15, 1905.*





# CONTENTS

## CHAPTER I

EARLY LIFE AND CAREER AT THE BAR . . .	1
--	---

## CHAPTER II

THE ENDOWED SCHOOLS COMMISSION . . .	24
--------------------------------------	----

## CHAPTER III

INDIA . . . . .	59
-----------------	----

## CHAPTER IV

POLITICAL ACTIVITIES AT HOME . . . .	115
--------------------------------------	-----

## CHAPTER V

LONDON GOVERNMENT . . . . .	158
-----------------------------	-----

## CHAPTER VI

JUDICIAL WORK . . . . .	194
-------------------------	-----

## CHAPTER VII

CRITICISM OF MODERN TENDENCIES . . .	217
--------------------------------------	-----

## CHAPTER VIII

THE CLOSING YEARS . . . . .	259
-----------------------------	-----

INDEX . . . . .	275
-----------------	-----

## PORTRAITS

ARTHUR HOBHOUSE, AET. 35 . . . *Frontispiece.*

(From a crayon sketch by G. Richmond, R.A.)

SIR ARTHUR HOBHOUSE, AET. 61 . . . *To face p. 134*

LORD HOBHOUSE, AET. 83 . . . ,, *p. 222*

## CHAPTER I

### EARLY LIFE AND CAREER AT THE BAR

ARTHUR HOBHOUSE was born at Hadspen House, in the county of Somerset, November 10, 1819. His father, Henry Hobhouse, by birth a Somerset squire, was an active and distinguished civil servant in his day. He was Permanent Under-Secretary of State for the Home Department from 1817 to 1827, Keeper of the State Papers from that date to his death in 1854, and a Privy Councillor from 1828. But besides being an active servant of the State, Henry Hobhouse held a high conception of his duties as a landowner. He was of the type which for many generations has made the government of England by the 'country gentlemen' possible. Always active in local affairs, and for ten years Chairman of the Somerset Quarter Sessions, he had in more than ordinary degree the habit of looking at things from the public point of view, and interesting himself in details of administration, dull as they might be in themselves, purely because they intimately affected the welfare and happiness of a country-side. The conception of a country squire's life and its duties which he bequeathed to his children is drawn in a letter by Arthur Hobhouse, written twenty years after his father's death, to one of his nephews :—

You are not likely to take a farm in hand, but will probably continue to let the whole as your great-grandfather, grandfather, and father did before you. Then the management of your property consists of adjusting the few questions which arise with the tenants, attending to repairs of buildings, and sometimes to such things as labourers' cottages and perhaps allotment grounds: all matters of interest and importance on which the difference between a well and an ill-managed estate turns; but all of which put together would hardly find *εὐζώνῃ ἀνδρί* more than two or three weeks' occupation in the year.

Then there are the various local functions which a country gentleman may perform. He may be a Poor Law guardian and attend their meetings once a week; a magistrate with meetings at Petty Sessions once a month, and at Quarter Sessions four times a year; a manager of Lunatic Asylums and similar institutions; a trustee of public endowments, and so forth. I have long thought that there is no more noble or useful life than one spent in honest and zealous devotion to these things. The men who will do it are very rare, for to do it well requires a great deal of close attention to minute details, and much patience, good sense, tact and temper besides, while the work brings in no money, and no reputation beyond the society affected by it. But such men are the very cement of the society in which they live, and they find their reward in seeing things go right instead of wrong, in their own self-respect, and in the respect of those about them. My father was one of such men, and he occupied a position in the county quite out of proportion to his insignificant property. Your father was rising into a similar position, and would probably have attained it had he lived a few years longer.

This conception of public service independent of a personal career forms the background of Arthur Hobhouse's own life. But the special duties of a landowner were not his. He was the ninth and youngest

child of his father. Of his three elder brothers, Henry succeeded to the estate, Edmund took orders and became Bishop of Nelson in New Zealand, and afterwards Assistant Bishop of Lichfield, and Reginald was for fifty years rector of a Cornish parish, and for fifteen years Archdeacon of Bodmin. Arthur's abilities showed themselves at an early age. It was a legend in the family—which if not wholly true was at least useful for damping the self-satisfaction of other precocious members—that he could read when he was two, learnt Latin when he was four, and went to school when he was six. The two earlier statements, if correct, should perhaps be quoted rather to the discredit of the educational methods of the age than for any other purpose. The third statement is confirmed by a letter, written to Sir Thomas Farrer sixty years after the event, in which Arthur Hobhouse speaks of the death of a Mr. Currey who was 'nearly my oldest friend; for our intimacy began when he was seven years old and I but six, under very adverse circumstances; two young children at the bottom of a large and rather rough school.' Such was education in the twenties. A clever, perhaps too forward child of six, taken out of the comfort and safety of home and pitched neck and crop into a large and rather rough school to sink or swim as best he could. However, Arthur Hobhouse was of those who swam. At the age of eleven he went on to Eton, where he spent seven years under Keate and Hawtrey. Thence (after distinguishing himself in the Newcastle Scholarship examination) he went up to Balliol in 1837. Here, like so many other men, he formed some of the friendships which persisted through his whole life and deeply

affected it. Stafford Northcote, Thomas Henry Farrer, William Rogers, and Jowett were among his most intimate friends, and in each case the relation was life-long. The future Master of Balliol was not in those days above the freaks of an undergraduate, nor did he always care in later days to be reminded of his doings. Balliol men recount a conversation at a breakfast in the College in later years, when Lord Hobhouse in a vein of reminiscence asked, 'Do you remember, Jowett, when you and I stole the scholars' surplices out of the ante-chapel?' 'No, no; don't remember it at all, think you must be mistaken,' was the Master's embarrassed reply. But it was perhaps repudiation rather than denial.

In November, 1840, Hobhouse took his degree, having among his companions in the first class in classics the late Lord Lingen. In the following June he was entered at Lincoln's Inn, and in 1845 he was called to the Bar. A journey to Ireland that occurred in the interval is worth mentioning for the sake of the impression he formed of Father Mathew. This is expressed in a letter which he wrote forty-eight years afterwards to the Lord Mayor of Dublin, on the occasion of the Father Mathew Centenary:—

Privy Council Office, *Nov. 10, 1889.*

MY LORD,—In the year 1841, when I had just graduated at Oxford, I walked over some parts of Ireland, and was hospitably received by Father Mathew in Cork. I then saw his administration of pledges, and heard his kindly sensible addresses to the recipients, and I have never lost the impression which I then received of the grand simplicity and unselfishness of the man, and his perfect willingness to spend and be spent in unceasing labour for the good of his fellow

men. I believe he exhausted his means and his life for them; and though it happened then, as ever, that the first enthusiasm of the people could not be sustained, I believe that he permanently inculcated in many the habits of restraint and sobriety. I am glad that you are about to do him honour, and I wish that my means were as abundant as my goodwill to help you. As it is, I send a modest donation, not that it can make any effectual addition to your funds, but more by way of expressing my sympathy with your undertaking, and my reverence for Father Mathew.

I am, my Lord, your obedient servant,

HOBHOUSE.

Whilst a student Arthur Hobhouse took part in a very different kind of work, which laid the foundations of his future views on many social questions. William Rogers, who was afterwards to make himself a name as 'Hang Theology Rogers' in the educational world, had become incumbent of one of the poorest parishes in the centre of London, and was throwing himself into the work of the place with his whole heart. Arthur Hobhouse gave him all the help he could, and many years afterwards, in a speech to the Charity Organization Society, he summed up the results of the experience thus gained:—

They were both young and had a great deal to learn, and amongst the things they learned were these: how easy it was to demoralize people by injudicious gifts, how useless it was to attempt to raise chronic poverty by the mere administration of doles, and how impossible it was to know what any one was getting unless there was much concert and combination between the various donors of good things. Well, it resulted, after many struggles and stumbles, that he laid down for himself these rules. First, never to give without inquiry—he ought to qualify that by saying that the rules were general rules, for in such a thing as this it



was impossible to have a universal rule, but as general rules they were these—never to give without inquiry; secondly, only to give when there was hope of tiding over some temporary pressure, and setting the recipient on his legs again—unless he made up his mind to treat the recipient as a pensioner on him for life; and, thirdly, to leave the chronic and the helpless cases to the Poor Law. These rules he found of some comfort and aid to him for the guidance of his own individual action, though it was an extremely imperfect guidance.

His life at this time is described in letters to his father.

*March 13, 1843.* Reading law seems to me to be like swimming by one's self in the sea, where after labouring much one does not seem to have advanced at all, owing to the vast extent before one and the want of all objects for comparison.

I am now established here in New Square with two other pupils, one of whom is Tom Farrer, whom you know.

A month or two later he is exercised on the question of becoming a marshal.

*June 8, 1843.* On receipt of your letter I conferred with Lonsdale who has been Patteson's marshal of late, with Farrer who was Erskine's, and with John Coleridge who is his father's. I find that they all undertook the office before they had been with a pleader, and that Coleridge went a circuit or two even before he took his degree at Oxford. They all agree in saying that the marshal's work is of so trifling a nature that a few minutes' application would make any man master of his business. In fact ignorance seems to be as necessary a qualification for the civil side as you think impudence is for the criminal side. You don't seem to doubt my impudence; and I will answer for my having ignorance enough for anything. Under these circumstances, having ascertained that Patteson was



not averse to having a marshal who knew nothing, I have accepted his offer. I presume this will be agreeable to your wishes, having gathered from your letter that your only reason for wishing the offer to be rejected was fear of my incapacity. And this I hope has been removed by what I have said. I believe the circuit does not begin till the tenth of next month. It appears to me (since they say that a Chancery barrister ought to know something of the practice of Common Law courts) that I may get some insight into the said practice during my marshalship, and thus be excused going circuit after my call. Wherein are two plain advantages: one that I travel at the public expense instead of my own or rather yours, the other that I do not now put myself out of the way of getting business in my own peculiar line, which if I went circuit after my call I should do.

I shall be very happy to convey Catherine to Southton or do anything else that may be thought requisite. But tell Eliza that if she wishes for an *avant-courrier* to Ventnor to prepare lodgings, &c., she could not pick out a worse person in the whole world than myself. Besides my natural incapacity for judging of situations, soils, airs, &c., I have been blessed with far too good health to have any idea of the kind or degree of the comforts requisite for an invalid.

June 15, 1843. Arthur Shadwell and I were not bumped at all, seeing that bumping is not incident to a breast race. Neither were we beaten, for though we did not come in first yet we won the real fruits of victory by not coming in last. For you must know that in our four-oar races the first boat wins honour and glory but the last boat *pays for the punch*. So that the real struggle is not who shall come in first, but who shall avoid coming in last. And this we did avoid. After all I can't think how you heard of it, for I am sure I never told you, and being a perfectly private affair it could hardly have appeared in the papers, except *Bell's Life* and you are not in the habit of reading that. I find rowing suit my knee admirably. It is not so fitting for my

sedentary occupations as it involves a loss of epidermis. I am glad to see a brilliant day and to feel a warm one, but the wind appears to be up stream, i. e. in the east. I hope I may soon have to take Cat to the Isle of Wight.

In October of 1843 he went to Oxford to take his M.A. degree. From Hadspen he had to drive to Castle Cary, whence he seems to have gone by coach to Bath.

I found when I got to Cary that you were quite right about the time of the Swiftsure, which was 9.30 and not 9 as I had been informed. I was forced to employ my spare time in lionizing Cary, which is a place not perfectly new to me, and therefore after having counted all the shawls in Mrs. Close's window I began to find it rather dull. I was the only outside and Mr. Wake the only inside. The coachman enlivened my dullness by giving me an extremely minute account of the last hours of his wife (who appears to have died a short time since), and of the manner in which he and his child exhibited their feelings on that sad occasion. He also took an opportunity of re-narrating the same to another passenger who got up at Prestleigh, but as the said passenger had taken an early opportunity of getting very drunk that morning, he did not evince much sympathy. For this, however, the coachman did not much care, but seemed satisfied with repeating his tale of domestic affliction. The drunken gentleman turned out to be Mr. — of Cannard's Grave Inn. He embraced me tenderly at parting, and pressed divers preparations of alcohol (all of which he recommended) on my acceptance; but I repulsed his embraces and declined his spirituous liquors, and so we landed him at his inn quite safe except sundry contusions produced by a heavy fall which he met with owing (as he asserted) to 'the wheels going round with him.' I also found poacher Phinn, whom you must know by his appearance at sessions. I spoke to Mr. John regarding the delay of your parcel, and he says that he has known many instances of delay happening

at Paddington, but none of its happening at Bath, and therefore he thinks that the fault was not at Bath on this occasion. He said further that if there was any parcel of great moment (here he darkly hinted at fish) it should be sent to Paddington with some trustworthy person who should himself see it put into the train. My mother will be glad to hear that I received a high character of Mr. Fisher both from poacher Phinn and Mr. John, and that to Mr. J.'s certain knowledge Messrs. Tudway, Jarrett, Knatchbull, and Colonel Jolliffe all deal with that tradesman. We got to Oxford very safe, and I procured dinner and bed at the Master's<sup>1</sup>. Both he and all his household down to Trim are very flourishing.

One small circumstance rather trenches on his happiness, which was that a certain writ commanding some one to attach the person of Richard Jenkyns wheresoever he might be found had just issued from that abominable court the high court of Chancery. I found him immersed in his answer, and had a long conversation with him on the subject, which ended by his resolving to do as you originally suggested, viz., to submit to the Court and reserve his opposition till a scheme is laid before the Master. I duly took my M.A. gown yesterday morning, in company with many others. The Master lent me £20, saying that that would cover all expenses, but the University and the College between them managed to run the bill up to £21 13s.

A journey by the same coach thirteen months later is described in another letter.

I had a very cold journey: the first part very pretty owing to the desperate attempts of the sun to break through the mists. But when we got to the top of Mendip, we suddenly experienced a feeling as though one of Dr. Priesnitz's wet sheets had been thrown around us, without the superincumbent blankets. We found ourselves in

<sup>1</sup> Dr. Jenkyns, Master of Balliol 1819-1854.

a thick cold wet fog with a mouldy-looking rime hanging from our hats, eyelashes, and whiskers, and any other hirsute surface to which it could attach itself. This lasted all the way to Bath, by which time a considerable quantity of the caloric with which we started had escaped. I think we reached Paddington without any very stirring adventures. I should mention, though, that a little way beyond Ansford we took up the daughter of the coachman, who immediately seized the opportunity of giving me a few additional memoirs of his late lamented wife, by way of reviver and supplement to the much fuller account with which he favoured me the last time I travelled with him. Really the knowledge I shall possess of her will almost entitle me to be her biographer.

In August, 1846, he made a tour to the North, and wrote :—

I am afraid that not many ptarmigans will fall to my gun, seeing that I propose going to Scotland without any such implement. I am not at any time a very keen sportsman, and when in new country I am always much more eager to acquaint myself with its features, physical and moral, than to destroy its wild animals.

From Ambleside he writes, August 12, 1845 :—

I got away according to my purpose on Monday evening, and arrived here at 11.30 on Tuesday morning. Rail as far as Lancaster; from thence Her Majesty's mail, which did itself great credit by galloping down these hills. The weather has as yet been not very favourable, being dull with occasional showers; and the hills are not too fond of showing their tops; however, there is light enough to show one the extreme beauty of the country, which though not new to me is as charming as it was at first, and the air most invigorating, especially after escaping from a stew pan. The Farrers have got a sort of lodging-house just outside the town of Ambleside; which is pretty much the same sort of thing as all lodging-houses in all watering-

places, very whitewashy and very public. I learn from the latest information that the name of the house is Fisherbeck Cottage. The only 'beck' we have discovered belonging to the said cottage is a little runnel, about half a foot wide and three inches deep, which ripples down by the side of the garden. We have not yet fished in it, but it hardly seems calculated to afford much employment for fishers. There are two steamers set up on Windermere, plying regularly between Ambleside and Newby Bridge, which afford much scandal to devoted admirers of the picturesque. Nevertheless I propose going by one of them to Bowness, where Edmund tells me I may expect to find George Blisset. But to my Londinensian and matter-of-fact eyes, a steamer or two is no dissight. The dominion of mind over matter is, to say the least, as pleasing to my taste as a beautiful wilderness. They are making a railway from Lancaster to Kendal, and talk of carrying it on to Ambleside; at which Wordsworth is very savage, and has written a letter to the *Morning Post*, and divers sonnets deprecatory of such proceedings. He complains that the quiet of the Lakes will be destroyed by the great concourse of visitors, whom he avers to be unable to understand the beauty of scenery. One is sorry to see the old man indulging in so selfish a piece of sentimentality.

In describing a visit of one of his brothers to Dr. Cull in 1847, he writes :—

Dr. Cull appears to be the author of an article which appeared in the *Penny Cyclopaedia*, headed 'Stammer.' This article, embodied in the form of a pamphlet, he distributes to his pupils, whose first task appears to be to master Dr. Cull's views of the method of elocution. What with the larynx and the pharynx, and the bronchia, and certain valves and cavities of various sorts, sizes, positions, and denominations, the process of speech seems to be nearly as difficult as that of understanding Dr. Cull's book. I dare say his views are all very right, but the only one of them clear to me at present



is that he affirms that to be true of all speech which I only supposed to be true of the greater portion of speech, viz. that it is great waste of breath.

In August, 1847, he became engaged to Miss Farrer, sister of his old college friend, and daughter of the well-known solicitor, Mr. Thomas Farrer. Two letters of this year are interesting as evidences of the prevailing spirit. The first is to his father, and refers to the fears of a French invasion.

. . . I am one of those benighted persons who think that we have no security for a month's peace, and that if we go to war our fiery and bitterly hostile neighbours will certainly attempt an invasion, and may possibly succeed in effecting a landing. Such fears are much laughed at, but as the open expression of them seems to induce men to take precautions, I for one do not shrink from the ridicule thereby excited. But there is another way of increasing the general security on which, as you yourself adopted it in your early youth, I should much like to have your opinion. . . . People say *The French will never get back again*; but however that may be, I have no fancy during the time they are here to see our houses burnt and ourselves maltreated and our women ravished. And the French are not famous for inflicting anything short of the full measure of the calamities of war upon any people they may happen to conquer. Nor are they likely to make any exception from their general rule in favour of the perfidious English. Moved by these considerations, I have been strongly induced to lend my assistance to a body of riflemen now in the course of formation amongst professional men; and yesterday I made some enquiries about it. I find that I can afford the requisite time; and I was assured that the immediate outlay (for a plain uniform, rifle, and bayonet) would not be above £10, and the annual expense only £3. I think, therefore, that I can afford the requisite money. But I should not like finally to determine on joining without asking your advice, if you will be good

enough to give it me. The way in which the matter strikes me is this:—

1. That the best way of preventing an invasion is to show that the fighting men of the country are in arms and prepared in such a way as to leave a small chance of success to the invader.

2. That if such a proceeding will not operate as a preventive, it affords the best chance of a cure.

3. That it is impossible to tell what effect the success of the Parisian mob may have upon Ireland and the Chartists and other malcontents in our own country, and nothing will strengthen the hands of Government so much as the existence of efficient corps of gentlemen such as the one to which I propose to belong.

4. That in case of any hostile force being in our country, it is better to meet them in the field than to suffer them to attack us in our homes, and that it is impossible for persons wholly undisciplined to contend in the field with regular troops.

5. That my inability to keep a horse renders it necessary that I should belong to some infantry corps, and that the nature of the country through which the enemy would have to march points out the rifle as the most efficient weapon with which to oppose them. But this is a minor consideration. It seems rather laughable to turn from a drawer of bills to a drawer of triggers, and I dare say one would make a very bad soldier, but still one might do something, and after all my principal reason is that which I put first, viz. that a display of resolution usually *prevents* an attack.

The second letter is to Miss Farrer, written on the eve of the great Chartist demonstration, when he was sworn in as a special constable.

11 New Square, *April 9, 1848.*

I obeyed your injunctions to visit Mrs. Farrer to-day, and found her well both in body and spirit. She declares herself quite at ease regarding the events of to-morrow; though she

says it would be otherwise if she had two naughty girls to take care of. She has ordered the two rusty locks to be (if possible) taken off the two rusty guns that are in the house; and has told Archer that she will not have either the kitchen cleaver or the poker given to anybody who may demand arms. I am sadly afraid that if it comes to a pinch, this order will hardly admit of being obeyed; like the order to take the wasp out of the room. William has been exciting his eloquence this afternoon to try and persuade Archer to become a special constable; but all in vain. He declared that he was no rebel, that he was satisfied with his present condition, indifferent to the question of universal suffrage, and but slightly interested in the other five points of the charter, that he would secrete the cleaver amongst his shirts, put the poker up his back, and do anything else in obedience to Missus, but—he had a wife, and did not like to be liable to be called away to a distance from her. A widely different spirit was manifested by Thomas. He avowed himself ready and willing to do whatever and to stay wherever Missus thought best, and I believe that, knowing that his forte consists in casting down brittle articles from high places, he has taken the whole of our china, breakfast set as well as dinner, to the upper story, with the resolution of dashing it down upon the very first ruffian who may attempt the door.

I have seen C. to-day, who both looked and reported herself well. Mrs. Farrer wished her to spend to-morrow in Gloucester Terrace, offering to send the carriage at any time of the day when it was not likely to be upset and turned into a barricade. This offer, however, has been refused; especially as Primrose Hill is one of the places of rendezvous, and therefore Gloucester Terrace is a post of greater danger than Devonshire Street. It does not much matter where any person is; I shall be very much surprised if the whole affair does not pass off in perfect peace and quietness. I will send you a line to-morrow if I can; but hardly expect it, as I shall be on duty in Trafalgar Square.



*Monday evening.*

I have just time to add a line to say that the whole business is over. The Chartists have been thoroughly beaten without a blow struck, and gave up their procession quietly. The only danger now is from bands of marauders, but the shop-keepers are now pretty well prepared for them.

They were married on August 16 of this year, and took a house in Devonshire Street. He was by this time acquiring some practice, as the following letter from a legal friend shows:—

TO THE RT. HON. HENRY HOBHOUSE.

Nov. 14, 1848.

MY DEAR SIR,—I think it may be a gratifying piece of intelligence to you to hear, that being in the Chancellor's Court to-day, I had the pleasure of listening for the first time to Arthur, who was speaking against a demurrer, which had been put in to a bill drawn by him, in a cause (*Law v. some Copper Coy.* I believe). The demurrer had been over-ruled in V. C. Bruce's Court, and had been carried by appeal before Lord Cottenham. I can *truly* say that I *never* heard any one—even the most practised counsel—address the Court, or handle the subject, in a more effective or masterly manner. I was standing at a little distance from the counsel seats at the time, and was asked by two or three very client-like looking individuals, who the Junior was who was so ably addressing the Court. When I mentioned Arthur's name, one asked if he were 'Mr. Roundell Palmer's Hobhouse'; and another, 'if he were not the son of the Rt. Honble. Henry Hobhouse.'

His success in arresting the attention of the Court (which he did in the most marked manner) was all the greater as the subject might have been supposed to have been exhausted by the two Q. C.'s (Russell and Bolt) who had just gone before him on the same side. One of the best proofs of his

eloquence is that it worked me up to such a pitch of enthusiasm at the moment, that I resolved to write you an account of the impression produced on me—which is simply this, that of all the men I have met, *without exception*, Arthur seems to me to possess, in the greatest degree, the necessary qualifications for success in the Court of Chancery.

His legal work during the next ten years was varied by several vacation tours abroad. In 1851 he visited France, and in 1852 Switzerland, for the first time.

Annecy, *Sept. 12, 1852.*

MY DEAR FATHER,—I hope you won't be ruined by the postage of this, but all our thin paper is out, and I am told that the thick costs no more; at any rate it is all I have. When last I wrote, or rather when Mary wrote, we were at Chamonix purposing to make a circuit of Mont Blanc. The weather, however, has again interfered and totally defeated us. Hannibal himself could hardly have crossed the Alps under such disadvantages; and Hannibal had no wife with him, possessed a good digestion, and didn't care for fleas. For the first two days of our journey we had a continuance of our fine weather, and this just sufficed to take us over the duller part of the route across the Great St. Bernard to Aosta, where we arrived on Saturday evening. We only stayed to lunch at the Hospice, and after an hour's stay we were glad to get away, it was so cold, notwithstanding it was midday and the sun shining brilliantly. The monk who attended us said it was one of the warmest days of this summer; and he informed us that few of them could stand the climate more than ten years, and even then many left with pulmonary complaints. The Valaisans talk of carrying a carriage road over the pass by a somewhat different route, in which case the occupation of the Hospice, at least in its present position, will be gone. But to this enterprise the Piedmontese must be parties; for their territory reaches to near the top of the pass, and they are not such active

road-makers as the Swiss. Aosta we found to be a beautiful place ; the valley is larger than the Swiss valleys, and the vegetation finer and more varied. The town also is very ancient and possesses many interesting buildings, the earliest of which is a triumphal arch erected by Augustus, whose name the city bears. But all praise of the city must be confined to its out-of-doors aspect ; creature comforts are sadly wanting. There is no clean water in the place, and such as there is is very little used by the inhabitants. The vermin in our rooms swarmed to such a degree, that we burnt lights all night and occupied ourselves the greater part of the time in defending ourselves from them. On Thursday we passed over the Little St. Bernard, and took our leave of the high Alps, of which we have seen about as little as is conceivable for people who have spent two or three weeks amongst them. Since we left Piedmont our personal comforts have materially improved ; the Savoyards are much cleaner, more active and thriving, than the people we saw on the other side of the Alps. It is indeed a great relief to have escaped from the filth and squalor of Italy. In the valley of Aosta it is said that more than two per cent. are idiots ; we saw a vast number ; and nearly every woman and a large portion of the males appeared to be affected with goitre. Such sights take away all pleasure which the beauty of the country might afford. We are at present in a very pretty little place ; the town is very ancient ; it has been possessed in turn by Romans, Visigoths, Saracens, Franks, Spaniards, Germans, and French. It is now in the Sardinian dominions ; the population is Savoyard, and speaks French. The buildings seem to have been erected in all periods, from the time of Methuselah down to the present, and the whole forms as quaint and grotesque a picture as can well be imagined. Yet, withal, it has life in it—the very Manchester of Savoy ; the population is about 6,000 ; they have one long chimney and are building another ; our salon is lighted with gas ; there are smooth pavements in the streets, and carriages can pass one another

there; the odours are of an altitude immeasurably inferior to those we have lately inhaled; at our inn we dine, and are not simply dined upon. Altogether we feel that we have got back to a land of comparative civilization.

Your affectionate son,

ARTHUR HOBHOUSE.

Meanwhile he made steady progress at the Bar throughout the fifties, and in 1862 he was made a Q. C., an event described in a letter to his wife.

Bethell has just sent me notice of his intention to make me Q. C. in a very kindly expressed note addressed not to me but to Palmer, to whom, as he expresses it, he will give the pleasure of being the medium of communication with me. I have written to thank him accordingly. You must prepare to contract your household expenditure, for those evening drafts over which you have groaned did after all bring in golden guineas.

Of his barrister days, Lord Davey preserves a reminiscence which is characteristic :—

When I first came to the Chancery Bar Hobhouse was a leading junior. Shortly afterwards he took silk and practised at the Rolls, in which Sir John Romilly then administered justice, in that very comfortable and well-arranged Court in Chancery Lane. One of the first serious cases in which I held a brief was in the Rolls, and I had Hobhouse for my leader. We came to grief, and probably deservedly. But I remember, and am still grateful for, the care which he took to make it clear to the clients that it was not owing to any fault of the junior in the conduct of the case before it came into Court.

This promising career was now to be checked. In February, 1862, he had suffered a great loss in the death of his eldest and favourite brother, and as his

executor and successor in many trusteeships, undertook a serious and trying addition to his responsibilities. Shaken by a severe illness in 1863, he came gradually to the conclusion that the rush of a lawyer's life in great practice was beyond his strength, and in 1866 he accepted an appointment from Earl Russell on the Charity Commission. It was a tremendous break in his career, and to some it might have seemed the end of it. Indeed, with a less able man, this would have been the case. The feelings of his friends are reflected in a number of letters, of which we give a few.

From Sir Stafford Northcote, Mrs. Hobhouse's brother-in-law, at this time a member of the Schools' Enquiry Commission.

42 Harley St., *March* 14, 1866.

MY DEAR ARTHUR,—I have not liked to write to you while there was any doubt as to the result of the step you had determined on taking; but neither do I like to let it pass without a word of sympathy. I cannot doubt that you are the best judge of what you can and what you cannot do without an undue strain on your strength; and I feel so sure that you have acted on full consideration, that I do not think we ought to indulge in the feelings of regret which are the first to arise when we learn of your cutting short a career which, if God had given you strength, must have been so brilliant. To my mind an unfinished work is always more suggestive than what we may call by comparison a finished one. It brings us more in contact with the world to come, and makes one feel that nothing is really complete here; but that all we do here is but a part of the great preparation for the higher future state.

But after all, I am talking nonsense, at least, I am saying what is inapplicable to you, though it is what I often dream of for myself. You have plenty of work yet before you; and I am really speculating upon the inheritance which we Schools'



Commissioners and others are likely to step into, now that you are dead to the Bar and have come to life in the Charity Commission. The time is a very critical one, and I hope it will not be long before we shall see your Commission advanced to the rank of a judicial tribunal of first-rate importance. It seems to me quite necessary that some new system of dealing with Endowments should be adopted, and that a simpler, cheaper, and more effective machinery should be substituted for the Court of Chancery. I hope, by and by, you will help us to establish it. It will be an immense advantage to us to have the aid of a thorough lawyer in the commencement and inauguration of the work; and looking at the matter from my own point of view, I am tempted to think that you may confer a more general and lasting benefit upon the country in your new capacity than you could have done as a barrister, or even as an Equity Judge. All this is at present in the dim future; and perhaps I ought not to tell you too much of what I think will be the result of our Commission. I will only say that *cum talis sis, gaudeo quod noster es*.

Ever yours affectionately,

STAFFORD H. NORTHCOTE.

16 Devonshire Place, W., March 16, 1866.

MY DEAR STAFFORD,—Of the many notes which I have had to answer I have left yours till nearly the last, because it seemed to me that I had much to say about it, and yet I do not now think that I have much, except to express very warm thanks for the amount of esteem and kindness displayed in it.

As regards the present, I feel very confident that I have done wisely. I have never properly and thoroughly recovered the shock my health received in 1863. I found myself falling again into the same state, and determined it was foolhardy to run the same amount of risk again. The question then lay between the alternatives of quitting work altogether, at least for a substantial time, and seeking some quieter path.

To the former, which would probably have involved as final a farewell to the Bar as I have now made, I could not reconcile myself. I hope that the latter course, by giving me substantial employment of no very exciting kind, will enable me to recover my former vigour if my constitution admits of it.

*Quoad* the future, I dare not speculate on it. If I feel strong and vigorous again, I shall object to work and promotion as little as any man. If otherwise, I may be found wanting in the energy requisite for novelties. At present I am content with the present, and unless I misjudge myself I shall remain content even though as time goes on it should be found that my office does not afford sufficient scope for the amount of work I have at command. I imagine the work to be substantial, to be useful, and to be increasing, or capable of increase: and, if so, though the post be not very dignified nor very lucrative, it will suffice to make me a contented man. Again thanking you for your sympathy, I am,

Ever yours affectionately,

A. H.

From J. D. Coleridge, afterwards Lord Chief Justice; at this time Liberal M. P. for Exeter.

I am very glad for the sake of the Charity Commission that such a man as you are has thought fit to accept a seat at the Board. I cannot make up my mind simply to congratulate you because I am so *very* sorry that you should leave the Bar. I hoped that before long you would make up your mind to take the plunge I have been fool enough to take, and become, as you are most justly fit to become, a law officer. Well, *fugaces labuntur anni*, and I am afraid your step shows that you are feeling older and not so strong as one who has known you so long, and regarded you so much as I have, would wish. Whatever happens, I know you will do good wherever you are, and as you were not unwilling to take this appointment, I am heartily glad you should have anything you care for.

From his old Eton tutor, Bishop Chapman.

My earliest leisure moment cannot be more gladly employed than in expressing the comfort I feel in your late appointment, with the premonitory warnings which you could not safely and prudently disregard. Disappointing it would be to many to have a career of distinction checked, but this will not, as it need not, cause *you* much regret, with one of real usefulness and benefit to others exchanged for hope of advancement to yourself. The qualities of your mind and character, dear friend, so fit you for your new office, that it is not your old tutor's weakness which makes him think it a real gain to the Church, and to the high interests confided to your charge. Full occupation you will have, both in research and in decision, without any strain being felt to which your physical strength might be unequal.

From Henry (afterwards Lord) Thring.

It is very lucky for the public that all clever men have not good health. You will inspire some life into the somewhat inert form of the Charity Commission. Undoubtedly the Commission will increase in importance with a man like yourself, and may do more good than any other body with which I am acquainted. I think you have done wisely in giving up the Bar, for although life may not be the first object of man, health undoubtedly is, and your strength was not equal to the work of a counsel in large practice.

From H. M. Cairns, afterwards Lord Cairns, at this time a leading speaker on the Conservative side in Parliament.

I was certainly much surprised when I heard you had accepted the appointment. Although you sometimes spoke of feeling the weight of your work, you seemed to me to do it with so much ease, and your position at the Bar was so completely made, and made in the very front, that I thought it



hardly to be supposed that you should surrender it for anything short of the Bench.

From Lord Romilly, Master of the Rolls.

It was with much surprise mingled with regret that I received and read your letter this morning. It was a great source of regret to me, because no one in my Court gives me more assistance, or in a more agreeable manner than yourself. It was a great surprise to me, because considering your position in my Court and the apparent facility with which you maintain it, I did not expect that you would make so great a pecuniary sacrifice for the sake of a permanent office. However, in all these matters, I am satisfied that every man is the best judge of his own affairs and of what is for his advantage, and therefore, though I cannot congratulate you, I cannot but congratulate the Board of Charity Commissioners on the accession of such a member as yourself. I feel the loss to myself severely, and sincerely wish you every possible success and health for the rest of your life.

The feelings of his family may be judged from a letter from his sister, Miss Eliza Hobhouse :—

I have read your letter to C. with much sorrow that you are obliged to put yourself aside, for awhile at least ; but really and truly thankful that you see the prudence of retiring from the business that has broken your health and can no longer be transacted without risk. I am very glad you have courage to act on this view, which those who have seen you of late have no doubt is the true one.

To yourself I cannot help offering my heartfelt condolence that bodily strength is not granted to support you in the use of great mental power and acquirement, and to the maintenance of a position and prospects you have nobly earned. But, if this cannot be, we must hope you will, like our Father, pursue a useful and honourable career in the line you have adopted, and by your timely retreat prolong a life which is so important to others.

## CHAPTER II

### THE ENDOWED SCHOOLS COMMISSION

‘SUBSTANTIAL employment of a not very exciting kind’: this was the phrase that Arthur Hobhouse used to describe the new life for which he had left the victorious struggles and the fierce emulations of the Bar. His friends, with one exception, sounded the same note of ambitions renounced, of repose, of tranquil restoration of health and peace. One man took a juster view of his future. ‘The time is a very critical one,’ wrote Stafford Northcote.<sup>1</sup> ‘I am tempted to think that you may confer a more general and lasting benefit upon the country in your new capacity than you could have done as a barrister, or even as an Equity Judge.’ How true was that appreciation, alike of the necessities of the hour and of the commanding gifts which made Hobhouse adequate to them, will be recognized by every one who knows the part he was to play in the next few years of his life in one of the chief emancipating achievements of the great era of reform which was then dawning over England. His new life, welcomed as a life of calm routine, was to prove a life of furious contest, and his strong sense of duty, unflinchingly obeyed, made him the centre of the storm which a resolute and revolutionary treat-

<sup>1</sup> Sir Stafford Northcote was a member of the Schools’ Enquiry Commission, and was therefore able to see what a storm was brewing.

ment of deeply-laid abuses provoked among the governing classes. His career at the Charity Commission was the turning-point in his life. It left on legislation and administration in a great crisis the strong impress of his wise, just, and fearless mind ; and it marked the birth of those liberal tendencies, of which the rest of his life was one continuous and consistent development.

The Charity Commission had been created by the Act of 1853, known as the Charitable Trusts Act, and if that Act had been carried in the form in which it was originally introduced by Lord Cranworth, it would have provided for the settlement of many of the difficulties which it was left to Hobhouse and his colleagues to overcome. Lord Cranworth's Bill would have given the Charity Commissioners power to frame schemes for the application of any charity funds towards the promotion of any charitable purposes in the following cases, (1) where the original purpose had failed ; (2) where the Foundation created pauperism or immorality ; (3) where Foundations, being insufficient in value, might usefully be united with others ; (4) where, in Foundations sixty years old, there were no beneficial results, or the benefits were insignificant compared to the value. The schemes were to be laid before Parliament, and, if consented to by the governing body, were to pass into law in three months unless annulled ; but, if not consented to, they were to be passed like other Bills. These provisions were struck out, and in their place clauses were introduced empowering the Commissioners to submit schemes to Parliament, but without specifying in what classes of cases, and without providing any machinery

for passing into law the schemes when submitted.<sup>1</sup> A commission with these limited powers was obviously quite incapable of dealing with the innumerable abuses that demanded drastic and immediate treatment, and it is not surprising that in introducing the Endowed Schools Bill in 1869, W. E. Forster was able to say that the Charity Commission in the fifteen years of its existence had only carried eighteen Bills, of which nine related to schools. Nor is it surprising that the Charity Commissioners themselves made frequent and fruitless complaints in their reports of restrictions which virtually disabled them from effective action, and that it had been found necessary in 1864 to appoint the Schools Enquiry Commission, of which Forster was a member, to investigate and report on the dismal condition of middle-class education in England. The seven chief public schools were excluded, as they had been made the subject of a separate enquiry and of separate legislation. The Schools Enquiry Commission dealt with 2,957 endowed schools, scattered all over the country, enjoying a gross income of £593,281.

The mere mention of these figures shows how justly Northcote had spoken when he said this was a very critical time, and how much was at stake in the conflict over the principles which should govern the use of endowments. Though Hobhouse had retired from the Bar for the sake of his health, he certainly brought no exhausted mind and no exhausted vigour to this momentous issue. The three lectures which he delivered, whilst he was a Charity Commissioner, in March, 1868, and in May and June, 1869, and which

<sup>1</sup> See *Dead Hand*, p. 57.

he afterwards published in the *Dead Hand*, are, by general admission, the most lucid, the most searching, and the most profound statement that exists of the case for drastic reform. Hobhouse had to contend not only with the natural fears and prejudices that are excited by any attack on vested interests, but also with John Stuart Mill's interesting and characteristic scruples. The best statement of Hobhouse's case against both classes of opponents is to be found in his lecture on the Disposition of Property to Public Uses, the last of his speeches before he was made an Endowed Schools Commissioner.

. . . I have been urged to examine, and I now propose to examine, how far the existing powers of Founders ought to be curtailed. And in so doing, I will again deal with the doctrines advanced by Mr. Mill, in the paper to which I have already referred. I do so for two reasons: First, because those doctrines seem to me to contain much error; and error from a man of such mark, and on a subject too which hardly anybody has taken the pains to study, produces disastrous effects. I have already come across cases in which people, who really shrink from and wish to suppress the whole discussion, are delighted to quote so great an authority in favour of quiescence. Secondly, because arguments (I am not speaking of assertions) in favour of the authority of Founders are so scarce that it is refreshing to find one of substance enough to grapple with, and useful to know whither to direct one's force. First, I will perform the more pleasant task of noting the points of agreement. (Mr. Mill allows that gifts to public uses which work a clear and positive public mischief ought at once to be interfered with, and he instances doles or distributions of direct alms. Again, he thinks that in all cases there ought to be some limit of time beyond which the Founder's intention should be wholly dis-



regarded, or, in other words, when his ownership over the property should cease. In both these propositions, as far as they go, I heartily agree: merely observing, that they have not yet found acceptance, that the evils arising from their non-recognition are very serious, the powers engaged in opposition to them very great, and that there is no chance of these or any other useful reforms being made acceptable to the nation at large, until they have learned to estimate the right of posthumous disposition more nearly at its true value.)

But when we come to consider at what point of time the Founder's ownership shall cease, Mr. Mill propounds schemes which seem to me objectionable, and founds them on reasoning which is absolutely fatal to all effective reform on such a subject.

His first and most characteristic argument is, that variety and not uniformity is the thing most essential to human progress. Minorities, he says, ought to be protected. The experiments of individuals to promote the public good ought to be allowed; and to disallow them, in the supposed interest of the public, is an offence against human liberty. And he inveighs against the intolerance of the majority respecting other people's disposal of 'their property,' of 'money of their own,' of 'what is lawfully their own,' after their deaths. Now, that the thoughts and speculations of adult reasonable beings should be left to play freely and without restraint, I agree. Their actions should be as free as is consistent with the avoidance of injury to their neighbours. To justify restraint of individual action on the ground of detriment to others, the detriment should be clear and indubitable; or, in legal language, the benefit of the doubt should always be given in favour of individual freedom. So much the perfect law of liberty requires, and so much is essential for the due progress of mankind. These principles demand that, in the expenditure of money, as in other things, adult reasonable beings should be left to act nearly as they please. While a man is alive you

have a tolerably sure guarantee that he will not, for any public object, expose himself to privations, to blame, to ridicule, to the chances of failure, or even undergo the exertions which any original or eccentric course involves, unless he has some strong enthusiasm or conviction that he is right. This guarantee might not work in all cases, but it would in so many that the others may be safely disregarded.

But when a man's deeds are to have no operation till he is dead, what security have we that he will be guided by any considerations of public spirit or benevolence; that he will feel the weight of responsibility; that his passions will be chastened by conscience, or his fancies corrected by sober reason and reflection?

I have intimated on previous occasions my deep distrust of *a priori* reasoning on practical subjects. Speculation and conjecture are doubtless essential to all discovery, but they should be carefully collated with facts, and if unverified are worth very little. To my mind the conjectural reasoning is against Mr. Mill's view. But I willingly turn from it to the teaching of experience. And it seems to me, that if there were any truth in the notion that, in order to have useful experiments properly tried in matters of public interest, we ought to put it in the power of men to make posthumous dispositions for this purpose, our history, and especially our history of the last 250 years, would abound with instances of valuable discoveries being made by means of such dispositions. We should be able to point to institutions and arrangements of great and acknowledged value taking their origin in some bequest, and which, but for that bequest, could never have flourished. Where are they? I ask Mr. Mill and those who agree with him to point out one, and when I am told of it, I promise to examine it.

At present, though our law has favoured gifts to public uses beyond that of any other country, though the wealth of our testators has exceeded that of any other country, I have



never come across a single case to support Mr. Mill's hypothesis, that the power of binding the public to accept property on a testator's own conditions is of value in the discovery of new modes of benefiting the public. But I have come across many, very many, cases in which that power has visibly operated to demoralize the testator himself, and all whom his actions affect.

He proceeded to give various instances, amongst them the following:—

Take the following mixture of bitterness, vanity, and eccentricity, in one Thomas Nash:—‘I do also hereby give and bequeath to the mayor, senior alderman, and town-clerk of Bath, for the time being, the sum of £50 per annum, in trust, payable of the Bank Long Annuities, standing in my name at the Bank of England, for the use, benefit, and enjoyment of the set of ringers belonging to Abbey Church, Bath, on condition of their ringing, on the whole peal of bells, with clappers muffled, various solemn and doleful changes, allowing proper intervals for rest and refreshment, from eight o'clock in the morning until eight o'clock in the evening, on the fourteenth of May in every year, being the anniversary of my wedding-day; and also on every anniversary of the day of my decease to ring a grand bob major and merry mirthful peals, unmuffled, during the same space of time, and allowing the same intervals as before mentioned, in joyful commemoration of my happy release from domestic tyranny and wretchedness. And for the full, strict, and due performance of such conditions, they, the said ringers, are to receive the said £50 per annum, in two payments of £25 each, on those respective days of my marriage and decease. And now that dear divine man—(to use Mrs. Nash's own words)—the Rev. P. B., may resume his amatory labours without enveloping himself in a sedan-chair for fear of detection.’/

Take again such an instance as this. The Lord of the Manor of Barton founds a school for the poor of several

parishes. There are to be forty children, all of whom are to be appointed by the lord of the manor. All the children are to be taught to read, but none are to be taught the dangerous arts of writing or arithmetic, except such as the lord of the manor shall think fit. I need hardly say that difficulties have arisen in the conduct of this school. Is this one of the experiments to which we ought to submit ourselves for 50 or 100 years? The Foundation was in the year 1807.

It is interesting to see how Hobhouse's opinions were received by some of his friends at the time.

MY DEAR HOBHOUSE,—I write to thank you for your pamphlet, which I have read with great pleasure.

I hope that this is only a beginning, as you hint, and that you won't let the matter drop. Opportunities should be made if they don't come. Judging by appearances there could be no better time than the present, on the eve of a Reform Parliament and after the Report of the Schools' Commission.

It has often seemed to me that it was not worth while for you to give up the prospects of the Bar unless you meant to undertake something of this sort. Perhaps it is a more difficult task than to achieve the greatest success at the Bar, for it requires more force of mind and character. A person must have 'a fire burning in him,' if I may use such metaphorical language, and lose no opportunity of impressing his views on the world.

Could you get your pamphlet reviewed in *The Times*? I think Rogers might manage this for you; or if he cannot, I will send the pamphlet to Brodrick, who is sometimes able to help in these ways.

The abstract question whether endowments are a good or an evil, raised by A. Smith and others, seems to me an unmeaning one. They are good when they are a stimulus either to education or science or sanitary improvement; when they are gained by self-help and promote self-help; they are evil when they are the reverse of this.

You have the knowledge of the law, and the experience of the facts, and the liberal mind that is not enslaved by long practice of the law. These meet in very few persons. Also, I think that you do yourself injustice about style, for the pamphlet is very well and tellingly written. I wish that you could bring out some larger and more general work, before the subject is really discussed in Parliament.

Ever most truly yours,

B. JOWETT.

From Mr John Morley.

193 Piccadilly, W., *May* 31, 1869.

MY DEAR SIR,—I have read with the highest interest the paper which you have been so kind as to send me. It is very valuable indeed, and I think that it presents a side of the matter perhaps more important for us to remember than the other and complementary side on which Mr. Mill dwelt. I presume that you have sent Mr. Mill a copy. If not, I should be glad to forward him one.

From Vice-Chancellor Wood, afterwards Lord Hatherley.

31 Gt. George St., *July* 22, 1868.

I find on my return to town your note and Lecture. I have only had time to glance at the latter. I think we shall not disagree very much. Several years ago I read at the Social Science (Bradford) meeting a paper recommending that none should be allowed to dispose of property for more than a life in being and 21 years afterwards in his own Scheme of Charity, but that at the end of that period every charitable endowment should be open to revision and applicable to purposes *then* deemed most beneficial by competent authority. I have given evidence to the same effect before the Middle Class School Commission, which Erle heard.

From William Ellis, the economist, the founder of the Birkbeck Schools.

36 Gt. Winchester St., E.C., *July 20, 1869.*

MY DEAR SIR,—I have delayed thanking you for the two pamphlets with which you so kindly favoured me through our friend Rogers, till I had an opportunity of reading not only them, but a report of your paper and the discussion thereon at the rooms of the Society of Arts.

My thanks would have been hearty had they been tendered to you at once, but they are much heartier now. You have delighted me. You carry me with you entirely. I shall almost be surprised if Mr. Mill himself does not express to you his concurrence in your views. The practical difference between you, if you were called upon to act together, could not but be small.

As regards the public in general, the source of 'founder-worship' is to be found in the confused notions which prevail concerning 'rights of property.' More than half the world seem to believe that there are what they call 'natural rights' which do not terminate with death. They need to be taught by you and the like of you that the rights of property are derived from law only, or the will of Society, and that the rights to 'property vacant by death' are also dependent upon the same power, and that what rights *ought* to be conferred in either case should be determined by one consideration exclusively—their tendency to contribute to the general well-being.

When once Society begins to grasp and apply these simple truths, many superstitions, some more pernicious than founder-worship, will be gradually dispelled. I heartily hope that the power will be placed in your hands of giving effect to the principles so ably expounded in your writings, both in administering the laws as they exist, and in obtaining those improvements of which existing laws are so greatly in need.

From George Jessel, afterwards Solicitor-General and Master of the Rolls.

Lincoln's Inn, *April 15, 1868.*

On my return from Paris on Monday night I found your note and accompanying lecture, for both of which I thank you. For the first, because you rightly assume that I have not sunk into a mere lawyer, but remain a man and trust always shall. Indeed I make it a rule (not always without exception) to devote one hour a day at least to some branch of non-legal knowledge. I devoted somewhat more than that time last night to your lecture, feeling justified, although it was the day before term, on the ground that it was not wholly extra-legal. It is a subject by no means new to me; but I am inclined to go much further than perhaps it would be proper for a Charity Commissioner to even think of going in the way of legislative interference with founders' wills. I need not say that the lecture is in every way worthy of you, both as to learning and style; but I do not feel at all confident that your audience admired it as much as I do.

From Earl Russell.

Pembroke Lodge,  
*April 12, 1868.*

I am much obliged to you for your Lecture, which I am reading with much interest. When I was in office last, I wished to appoint a Commission to consider the subject from a general point of view, but Lord Cranworth thought we had enough of Commissions.

Still, the subject deserves enquiry, and after enquiry legislation. The limit of a life and 21 years gives some security against the perpetuity of private bequests, and the extravagance of heirs brings estates left to a family of descendants into the market. But charitable foundations are a perpetual mischief. Some remedy ought to be applied.

Your position on the Charities Commission you owe solely



to your reputation as a lawyer and a man of ability, a fame well deserved.

From Robert Lowe, who was to become Chancellor of the Exchequer this same year.

34 Lowndes Square, S.W., *April 7, 1868.*

I have read your lecture with great pleasure. No better service can be done than to teach the public the elements of this subject. It is strange how utterly ignorant persons otherwise well-informed (Lord Cranborne, for instance) are on this subject. I go even further than you, and seriously think that many kinds of charities ought to be altogether prohibited, and all subject to the most absolute revision without the least reference to the will of the founder after the expiration of 21 years.

In 1869 the Endowed Schools Commission was created by Forster's Endowed Schools Act, which Mr. Morley, in his *Life of Gladstone*, describes as 'one of the best measures in the history of this Government of good measures.' The Endowed Schools Bill, which was the outcome of the Report of the Endowed Schools Enquiry Commission, contained two main proposals, first, that three Commissioners should be appointed with powers to frame schemes for individual schools and with large powers of reorganization and reconstruction; second, that an Examining Board should be instituted to give certificates of efficiency to masters; no master was to teach in an endowed school without such a certificate, and masters in private schools might compete for them. The second part was abandoned, and the authority of Dr. Benson, then head master of Wellington College, was quoted against it. The proposal to institute inspection, made by the Endowed Schools Enquiry Commission, was for the present

postponed, as Forster thought it could be better arranged after the reorganization of the schools had been carried out. Forster was able to make out an overwhelming case for his Bill, and he fortified it with many amusing instances.

In one school, whose net income was £792 a year, the head master taught three boarders, and no others, the under master only attended when he chose, and the usher taught in an inferior village school. In another school, where two masters received £300 between them, and one had a good house also, one boy was receiving instruction, while a private school close by had eighty boarders, and forty day scholars paying more than the grammar school fees. In another, where the master, since dead, received over £200 a year, the Assistant Commissioner of the Schools Enquiry Commission found him occupied in preparing a system of 'teaching prime numbers,' the system being contained in two perfectly unintelligible cards, which were shortly to be brought into use in the school. In another case, in the South of England, the trustees had made it a condition that the master should take boarders, but he fixed prohibitory terms (£120 a year), and of this school the Commissioner had written, 'Six day boys, all very young and paying fees, composed the school. The boarders' dining-room was occupied as a coach-house by two of the master's carriages, the night study was a laundry, and the large dormitory a billiard room.' In Suffolk at one school the master did no work whatever, but supported an old age in the comfortable school-house; at another he was almost helpless from age and paralysis; at a third he was honest enough to declare that he was



no longer fit for work ; at a fourth he was deaf ; while at two others he was no longer in the prime of life, and was languishing under his work. That is to say, more than a quarter of the grammar schools in one county were suffering from the bodily infirmities of the master.

Objection was taken in many quarters to the appointment of a Commission, which was described as an 'all-powerful triumvirate,' and it is perhaps not surprising that the strong opinions which Hobhouse had expressed, were thought by many to disqualify him from serving on it. The other two Commissioners were Lord Lyttelton and Canon Robinson, of whom Lord Lyttelton found himself in somewhat the same predicament as Mr. Hobhouse. The names of the Commissioners were not divulged till the Bill had passed the Committee. In the House of Lords the Duke of Richmond objected to Lord Lyttelton because he had taken part in the discussion on Hobhouse's paper at the Social Science Association, and had expressed disrespect of founders' intentions. On that occasion, indeed, Lord Lyttelton had gone so far as to say that he was doubtful if the Government were wise in entrusting such large powers to men of such pronounced views as himself and Mr. Hobhouse. The Duke of Cambridge was afraid of Lord Lyttelton, though he, Lord Lyttelton, 'could not go quite so far on that subject as Mr. Hobhouse, a distinguished Chancery barrister, who had not felt himself precluded by his intended appointment on the Commission from giving expression to his views.' Lord Salisbury, who was anxious to 'restrict the area over which the destructive action of the Commission was to range,' said that it was impossible to act judicially and im-

partially when you had formed strong opinions. 'This somewhat applied to the noble Lord, and in a greater degree to Mr. Hobhouse, for he could not see what chance an unfortunate school would have that got into Mr. Hobhouse's clutches.'

When the Commission set to work, it excited less Parliamentary opposition than might have been expected from the temper of these discussions, and only ten of its actual schemes were challenged.

Mr. Hobhouse's own views on his position are best stated in a letter of June 28, 1871, to Lord Carnarvon, who in discussing one of the schemes of the Commission in the House of Lords, had referred to the views on the general subject of endowments expressed by the Commissioners.

Your Lordship thinks that you have made no personal attack on me. You will pardon me for saying that you have attacked me on a point on which a lawyer is peculiarly sensitive. According to *The Times*, you have said that on account of my opinions I am hardly fit to exercise judicial functions. Now every profession has its points of honour. And with lawyers it is a cardinal point of honour not to allow personal opinion to influence professional duty. I wonder whether any judge on the Bench, or eminent lawyer of any kind, would stand the test your Lordship applies to a more humble personage. Sir Roundell Palmer thinks patents are wholly mischievous; would you therefore say he is unfit to be Attorney-General, who has to decide whether or no patents shall be granted? The present Lord Chancellor<sup>1</sup>, with other Chancery judges, entertains quite as strong opinions as I do about Founders and their authority, are they therefore unfit to judge in charity cases? Only the other day V.C. Wickens, and after him Sir W. James, strongly

<sup>1</sup> Lord Hatherley.

condemned the Law relating to the custody of infants, a topic on which people's feelings are very excitable; but did they therefore strain the law, or does anybody blame them for doing their best to call attention to its defects? I might multiply such examples infinitely, but I have probably done enough to show that your Lordship's censure of me is not relevant, even if I were the judge from whom an appeal is brought, which I am not.

. . . . .

I now know, which was not the case before, to what utterances of mine your Lordship refers. Of course I am not going now to defend them, nor even to point out the qualifications with which they were accompanied, and which for fairness sake, should be cited with them. What I say is, that they have no bearing whatever on the case in hand, and can never have much more, if they have any, on any individual case. For my purpose they were important. They were written at Christmas, 1867. At that time no one (except Lord Cranworth, who was completely defeated) had ventured to propose any reform at all in the Law of Endowments, notwithstanding the often-repeated recommendations of the Charity Commission. Having recently become a member of that Commission, I found that the mass of people would not even consider the question of reform, from a preliminary objection that it was irreverent and unjust towards Founders. I therefore set myself to attack this objection both on its legal and its moral side: contending that we were obeying a bad law and reverencing an unworthy object. But all this was done to promote a *general reform of the Law*. At that very moment I was daily applying, in (I think) the driest professional temper, the very law which so required alteration. Nor did it ever occur to me that my wish to alter the law, however strong, could have any bearing on my judgement how it was to be applied in a particular case.

The Endowed Schools Act is one instalment of the necessary reforms. And why that Act should not be applied to

each case by persons previously interested in its success, as honestly and intelligently as by those who knew and cared nothing about it, I am at a loss to conceive.

The Endowed Schools Commissioners suffered in 1871 a severe check in the rejection by the House of Lords of their scheme for remodelling the Emanuel Hospital, Westminster. This charity was nearly 300 years old, and was administered, in accordance with a Royal Charter of Queen Elizabeth, by the Lord Mayor and Aldermen of London. The revenues of the endowment had, of course, increased very largely, and at the time the controversy arose it was used as an almshouse for some twenty aged people and a school where some sixty children, boys and girls, were clothed, boarded, and educated. These children were admitted into the school on the nomination of members of the Corporation. The Endowed Schools Commissioners proposed to abolish the existing school and to amalgamate the Emanuel Hospital with three other local Charities, in order to create an adequate system of secondary schools for Westminster. Under this scheme there were to be two day schools and one suburban boarding school, each containing 300 scholars. Fees were to be charged, but exhibitions were to be founded of which one-third were to be given to the best boys in the primary schools, one-third were to be reserved for orphans, and the remaining third were to be subject to general competition. The schools were to be placed under a new governing body of twenty members, on which the Court of Aldermen were to be represented by three of their number. The Corporation, threatened with this loss of patronage and of rights of management, attacked the scheme with great vigour, and

raised the cry of spoliation and robbery, which is always sure of a sympathetic response from the English public. A brisk warfare followed in the press and on the platform. *The Times* gave a powerful and consistent support to the Commissioners, and the charges brought by the friends of the Corporation were answered in its columns by Mr. Fearon, who had been a member of the Schools Enquiry Commission, and Mr. Roby, Secretary of the Endowed Schools Commission.

The opposition to the scheme in the House of Lords was led with spirit and enjoyment by Lord Salisbury. His most eminent supporter was Lord Cairns, whose objections to the scheme carried all the greater weight because, unlike Lord Salisbury, he sincerely respected both the members of the Commission and the general spirit of their administration. A certain picturesque interest was added to the debate by the intervention of Lord Buckhurst, a descendant of the foundress, who assured the House as her representative that no fault was to be found with the way in which the Corporation had administered her benefactions. The Duke of Argyll and Bishop Temple supported the Commissioners.

The Duke, to illustrate his contention that the Corporation were unfit to administer the School as Governors, quoted from a document, issued in their name, the following sentences: 'We are charged with having made no attempt to make the school the means of eliciting superior qualities and promoting the possessors of them. We freely admit the charge, and we should hold it to be a breach of our trust to divert the bounty intended for the poor and destitute for purposes of higher education.' In the same document the Corporation defined the object of the school thus:



‘Hewers of wood and drawers of water would still be wanted, and in properly educating such to gain their living by their honest labour, as Lady Dacre directed, Emanuel Hospital is fulfilling its proper function in the work of education.’ A form of prayer was given to the children to be said every night, in which they prayed that they might meet the worthy Governors, the Lord Mayor and Aldermen of London, in the heavenly kingdom.

The most frequent and the most plausible argument on Lord Salisbury’s side was the argument that money which had been left for the poor was being diverted to the uses of the middle class. Lord Lyttelton, the chief Commissioner, was not very happy in his answer to this charge, and the most powerful reply came from Lord Ripon, who pointed out that the beneficiaries under this scheme would be chosen from the promising poor boys in primary schools rather than from the children of the servants and dependants of the Corporation. Bishop Temple argued that circumstances had changed with the passing of the Elementary Education Act, and that the best way to provide for the poor was to supply secondary schools that would be accessible to those of their children who were able to profit by them. Lord Salisbury’s motion was carried by a majority of eight, and though Lord Cairns expressed in a private letter the hope that the scheme might survive in a modified form, the hope was not realized, and the whole scheme for reorganizing the Charities of Westminster was rejected for the time.

Two years later, in 1873, when Hobhouse was in India, the scheme passed the House of Commons in an amended form.

Before the first encounter in the House of Lords Hobhouse wrote to his wife :—

Endowed Schools Commission,  
2 Victoria Street, S.W., *April 22, 1871.*

I have just received a message from Forster which will prevent my going away. He is in great turmoil about the Emanuel case, on which indeed the whole success of the Commission depends. It is therefore very important not to stumble at the first encounter, and as this unfortunately takes place in the House of Lords, and Lord De Grey is away, others must be coached even if only for the purpose of enabling them to judge whether to argue the case at once or to put it off; a point which cannot be decided till Lord Salisbury has fired off his speech. So I promised Forster not to go away, if wanted, and it seems he does wish me to *prime* the L. C. this evening, and if possible Lord Westbury to-morrow.

It is very provoking, but business must be done; and it is no easy matter to answer briefly at least fifty lies crammed into as many paragraphs. I have been occupied all day with it, and have supped full of mendacity.

Two letters after the defeat in the House of Lords are of some interest. Lord Cairns wrote :—

I confess I should have been very glad if I could have voted for the scheme. There is much in it that seemed to me to be extremely good, and I have no sympathy with the narrow and selfish views of the Corporation of London. But the scheme has been made the test of more extreme views on the subject of competitive examination for elementary schools, and of the propriety of making what seem to me general endowments for primary education into either secondary schools or prizes for the 'élite' in primary schools, than I can bring myself to endorse.



I think the scheme might be modified so as, without impairing its efficiency, to avoid forcing these views in so sharp a form on those who are not prepared to accept them.

Lord Westbury wrote :—

House of Lords, *July 3.*

I am very much vexed to find by *The Times* of this morning that Lord Bessborough by a singular mistake paired me as a Peer who was in favour of the Marquess of Salisbury's motion.

Nothing could be more contrary to my intention and expressed desire.

The Scheme of the Commissioners had my most cordial approbation. After Lord Cairns's speech I was anxious to speak, but gave way to M. of Ripon. The House was impatient, and as the Lord Chancellor was desirous of speaking I gave up the hope of getting an opportunity of being heard, and having a dinner party I left the House whilst Lord Nelson was speaking. I regret the result very much, as I most thoroughly approved of the Commissioners' Scheme. In fact it is what I have advocated for more than thirty years. Pray make this known to your colleagues.

Hobhouse's view of the importance of the decision in the Emanuel case is given in a letter to a nephew in 1904.

My canvass of Westminster in 1879-80 taught me that one if not the main cause of the overturn of votes in London among the trading classes was fear of reform in favour of the artizan classes. I remember Leonard Courtney asking me some time in the eighties why all the London shopkeepers had turned Tory, and I said, mainly because they were afraid of reforms in favour of the artizan classes. . . . All subsequent observation has tended to confirm me in that view. The City of London turned round bodily and sharply on the Emanuel Hospital case. They were

trustees of large eleemosynary funds, and assumed to be owners. The Endowed Schools Commission treated them as trustees. That was not to be borne. A violent agitation was set on foot, supported by the whole Tory party in the House of Lords. It took all Gladstone's strength to maintain the law. The City, which had been Liberal for long periods of time, has been Tory ever since that interference with its 'property.' The position of its wealthy members and their cries of 'Robbery' had a great effect in the election of 1874. There was much property in the same sort of position, and trustees sucked no small advantage out of it. So interference was bitterly resented. The artizan classes were quite supine in this case, though the object of the Commissioners, and the result, was to convert some patronage of the Common Council into excellent schools for the labour classes in London.

His views about the whole question, after three years' work on the Commission, are given in the following letters.

Endowed Schools Commission, 2 Victoria Street, S.W.  
*January 2, 1872.*

Heaps of business here. But things look gloomier than ever, and personal interests in the ascendant everywhere, and not a spark of public spirit to oppose them except in the County of Devon. The schoolmasters are quite right, but they also are speaking in the direction of their own interests, and they have no political power. Palmer's opinion merely supports my legal judgement as against John Coleridge's: it does not and cannot undo the practical mischief resulting from the Education Department preferring to be guided by private opinion of an advocate instead of having recourse to the public tribunal pointed out by the Law.

However, our duty clearly is to struggle on and produce such results as the Act intends. If then the nation do not choose to have them, our consciences will be free, though

of course we shall bear the whole blame. But the Act may as well be struck out of the statute book ; into which, indeed, it never ought to have got without much more discussion than it received.

*September 7, 1873.*

At all events the Commission has been more successful by a good deal than I ever thought it would be when I reluctantly consented to serve upon it. I believed the Act to be premature by many years, and knew that its effects had not been discussed and were not understood by those who passed it, and that if it ever was worked at all honestly, let the moderation in working it be what it might, there would be a great row. Under these circumstances I always looked upon ourselves as missionaries sent to lighten the heathen, and to be persecuted and perish at their hands ; as a forlorn hope told off to die in the ditch, and who are successful if those who come after them can mount the wall. There has, however, been a good deal more success than that ; for one of the most obstinate strongholds of corruption has been stormed, and though the victors may have been knocked to pieces in the contest, they have made it comparatively easy for others to occupy the province of endowments and reduce it from anarchy and chaos to law and order.

*July 14, 1874.*

The gist of the whole matter is that the Act was ten, or perhaps thirty, years too early. It wanted a new generation grown up in familiarity with the discussion of its main principles. It would never have passed had not people's attention been absorbed by the Irish Church Act. The consequence was that when set to work, even in the most moderate fashion, it came by surprise on nine-tenths of society, and excited resentment against its agents. The same thing happened under the Poor Law of 1834, which indeed was more discussed, but was very imperfectly understood or accepted by the country. I have referred to this analogy several times in our discussions on this subject.

Then the first Commission, who tried honestly to work the law, encountered great unpopularity and was broken up. The consolation is that their brave and sincere attempt to put in action a law sound in principle but new and distasteful in character, produced a distinct balance of good, and so I hope it may be found of the E. S. C.

Mr. Roby has been kind enough to supply us with the following account of the work of the Endowed Schools Commission.

Mr. Hobhouse's legal knowledge and experience stood the Commission in good stead from the very commencement of its work. There were in the Act a great many matters of no slight complexity which had to receive, if not an authoritative interpretation, at least a practical and working interpretation. Whether the particular business was a model scheme for the administration of an educational endowment or an answer to doubts about the extent of the jurisdiction, or unravelling the mixed law and facts surrounding the treatment of a particular endowment, he was always patient and thorough in consideration, and modest and clear in statement. The Commissioners acted as a body in deciding on general principles and in the final approval of a scheme, but in the selection of particular schools or endowments for prior treatment they usually acted separately, each in the section of England allotted him. Each saw and instructed the Assistant Commissioner who was sent personally to negotiate with the local authorities, and each directed or drew the letters sent from the office to explain the way in which it was proposed to deal with the particular endowment. The letters bore the secretary's signature, but were usually the work of the Commissioner in charge. Mr. Hobhouse wrote with facility, and excelled in close and forcible argument, and naturally took kindly to this part of the work<sup>1</sup>. I can remember the

<sup>1</sup> The letters were often written on a number of half-sheets of note-paper and pinned together for the clerks to write out. He told me that he did this because he hated waste.

satisfaction with which he said when such an occasion arose, 'I think this is a case for a reasoned letter'; and I was sometimes amused in thinking what the village trustees would say when they received a careful and elaborate exposition which might have seemed appropriate if addressed to a judge on the bench. But we soon found that behind the village trustees there was often a Church or Nonconformist Vigilance Committee, who were capable enough of comprehending the argument, however little they might be disposed to be convinced by it.

I do not know that, at first at any rate, there was marked difference between one Commissioner and another in their general views on the reform of the schools or on the application of the Act in detail. All were in favour of giving large freedom, so far as the Act permitted, to the governing body on religious instruction; of grading and adjusting the schools of a district so as to meet, without unnecessary overlapping, the various educational wants; of admitting girls to the benefit of endowments whenever the nature or magnitude of a foundation made it suitable; of converting to educational uses doles and other obsolete or pernicious charities; of giving the locality an effective share in the government of the schools. The legal difficulties involved in carrying such views into practice were naturally more perceptible to Mr. Hobhouse than to his colleagues, and he often expressed, both verbally and in writing, his desire that a point should be argued by counsel so that there might be as much light thrown on the problems as possible before the Commissioners took any final step. Fate was somewhat cruel to him, as when in one difficult case, the trustees having accepted the proposal and engaged Mr. Lopes, Q.C., and Charles Bowen to argue their view, the argument came off only when he had already ceased to be a Commissioner by his appointment to a high post in India.

As the work of the Commission proceeded, it became evident that the Schools Enquiry Report which produced the Endowed Schools Act, and the Act itself, were in



advance of the general sentiment of the country. Trustees who objected to any interference, schoolmasters who disliked the sphere proposed for them or their school in future, Church and Nonconformist Committees who claimed to have the Act interpreted in ways specially favourable to their educational principles or desires, solicitors who feared their interests might suffer under a new governing body or by the simplification of the rules for administering the trusts, gradually murmured or clamoured disapproval of the Commissioners. A number of wealthy endowments in Westminster, within a stone's throw of the Commissioners' office and of Parliament, seemed to me to invite large and early reform. Mr. Hobhouse readily took the suggestion, and commenced proceedings. One of them, Emanuel Hospital, was under the government of the Aldermen of the City of London. The solicitor to the City sounded the tocsin, and summoned the authorities of boroughs and trustees of endowments throughout England to resist the Commissioners, and succeeded in bringing opposition to a head. The scheme proposed was rejected by the House of Lords on Lord Salisbury's proposal, but afterwards amended and carried in the House of Commons after a brilliant and slashing speech by Mr. Gladstone. The schools so reorganized by the Commissioners' schemes have proved a great success, but the tumult hindered the work of the Commission and made it difficult or impossible to deal boldly at that time with endowments in other parts of England similar to that of Emanuel Hospital for the boarding and clothing as well as for the education of scholars. The Commissioners were not cowed by turmoil or obloquy into any surrender of their principles, which were stated pretty fully in a general report presented to Parliament in 1872 (No. C. 524), and drawn mainly, I think, by Mr. Hobhouse. The appendix to that report contained several letters or documents, on different parts of the Commissioners' operations, and those on legal questions were largely if not entirely drawn by Mr. Hobhouse. But they are too intimately connected with

the particular facts of certain endowments and particular clauses of the Endowed Schools Act to allow of quotation for general purposes.

If I were to criticize Mr. Hobhouse's action as a Commissioner in dealing with particular educational endowments, I should be inclined to say that he perhaps looked upon the Commissioners too much as judges, which to some extent they certainly were by the Act, and too little as administrators. He was indeed much more of the lawyer than of the diplomat. It was not for him to waive or reduce the requirements of the Act of Parliament or to submit the discretion which the Commissioners were to exercise to the opinions or desires of non-authorized persons. And dogged opposition on the part of particular trustees was apt to appear to him rather as faithlessness than as fidelity to their trust. He had so thoroughly convinced himself of the folly and mischief of many of the parts of existing administration of charities, that he was hardly able to understand the ignorant complacency and blind adherence with which the founder's will and ancient rules were regarded by some of the local administrators. I agreed in his views too strongly to be disposed or entitled to censure : I am only describing what appears to me to have been his position.

As time went on I cannot but think the turmoil and noise of opposition, sometimes no doubt legitimate but often prejudiced and unreasonable, savouring rather of politics than of zeal for educational interests, made the work of the Commission grow somewhat irksome to him. He probably felt as a judge would feel where loud assertion and indecent clamour were substituted for argument and proof. Perhaps, too, the subordination of the Commission to the Committee of Council on Education, when both parties, being sensitive to the external agitation, grew inevitably critical of each other, formed a further ground of dissatisfaction in his mind. So that while he never shrank from manfully playing his part, I should suspect



he welcomed his removal to another sphere of official duty, when he was appointed to the distinguished post of Legal Member of the Council in India.

Lord Davey writes about this Commission as follows :—

The work of the Commission was to reform and in many cases to resuscitate and recall into life the vast educational endowments of this country, except the seven so-called Public Schools which were dealt with by a different Act. This work was particularly congenial to Hobhouse's intellectual character, which was distinguished by logical and fearless adherence to principle, tenacity, and thoroughness of work. In conjunction with the energetic Secretary of the Commission, Mr. Roby, who afterwards became a Commissioner, he was mainly responsible for laying down the lines upon which the schemes made by the Commission have been framed. Judged as a whole, the work which Hobhouse assisted to initiate, on lines which were followed in the main by his successors, was one of a public utility which it is almost impossible to exaggerate. A work which necessarily interfered with the private patronage and functions of powerful corporations, and offended local susceptibilities and the supposed interests of bodies of self-elected trustees, was sure to meet with opposition and to be freely criticized. Vested interests had to be considered, and the religious difficulty was always present. As standing counsel for many years of the Endowed Schools Commissioners (after Lord Hobhouse had ceased to be a member of that body), and subsequently as member and chairman of one of the largest endowed schools in the neighbourhood of London, I have had unusual opportunities of estimating the work of the Commission. I think mistakes were made both in tactics and in substance. I doubt the wisdom of at once attacking the most powerful corporations, though it was characteristic of the moving spirits of the Commission in its early days. And experience has shown that the

Commission overrated the powers of the schools to be self-supporting after they were provided with school buildings and a salaried head master. Nor did they perhaps sufficiently allow for the demand for an expanded range of education which has followed on the impulse they have given to educational activity. But granting all this, the mistakes can be, and are being, corrected and the best monument of the work which Hobhouse assisted to inaugurate is 'Circumspice.'

It was during these years of his life that Mr. Hobhouse first came into touch with Mr. Bryce, who writes :—

My acquaintance with him began when he was a Charity Commissioner, many years ago; and I was quickly struck not only by the thoroughness of his knowledge of the economic as well as the legal side of charity work, but even more by the zeal and interest in his work which moved him. Nobody could be less like the mere routine official, who does his duty in a *humdrum* respectable way and then thinks he has done enough. Mr. Hobhouse was an economic reformer, permeated by the sound economic doctrines which were practised as well as preached forty years ago. He had an extremely high standard of duty and of honour, and he had also a most kindly and tender heart. But he was convinced that what may be called 'legal charity' did far more harm than good to the poor, and his experience had shown him that charitable foundations are apt to become nests of abuses, and that even those which are honestly and carefully managed are often useless, because the objects to which they are devoted have ceased to be the objects now needed. He was therefore a reformer of a bold type, who was trenchant in language and would have been drastic in action also, had the opportunity been given him. He wrote several pamphlets and articles advocating sweeping changes in the law, but he found few ministers or legislators willing to support him, for the failure of Mr. Gladstone's effort to tax charities

—made in a speech which has become famous for the luminous cogency of its argument—had spread the belief that the public was not educated up to the level of the principles to which Mr. Gladstone and Mr. Hobhouse appealed. However, he persevered so long as he remained a Charity Commissioner, and as an Endowed Schools Commissioner he was able to do much good in the way of improving the old grammar schools, though less than he desired, for forces of resistance, well-meaning but ignorant resistance, often checked him and his colleagues in a policy which was cut short by the reactionary Act passed by the Tory Government of 1874.

When I was preparing the Bill for the reform of the Parochial Charities of the City of London, which after three years' fighting passed into law in 1883, he gave me invaluable help both in suggesting the provisions needed and in revising the drafts of the Bill. He never grudged trouble when any public end was in view: and was indeed one of the most unselfish and high-minded men of his time, with whom it was a pleasure to work, because the more you knew him, the more you respected him.

His independence and his courage were abundantly proved by the position he took up and adhered to in India when a Viceroy, animated by views which he strongly disapproved, was placed at the head of the Council of which he was a member. But of his Indian career, and of his life and work after he returned to England, others are far more competent to speak than I am. His simple dignity, his straightforwardness, his zeal in the cause of freedom and humanity, remained through his declining years what they had been in his prime: and though he sometimes seemed grieved when comparing what he saw in old age with the greater and wider enthusiasm for noble ideals which he had seen in his youth, he was never harsh in his judgements, and seldom despondent of the future.

The importance of the reforms in middle-class education, sweeping though they were, have been

obscured by the still more important Act, creating a national system of elementary education, which Forster carried through the House of Commons in 1870. Hobhouse, though afterwards a member of the London School Board, was debarred as a civil servant from taking any prominent part in the first election of that Board. He, however, acted as Treasurer of the Committee formed for securing the election of Mr. Huxley. He wrote an amusing letter to his wife, describing how he came to take this position.

Endowed Schools Commission,  
2 Victoria Street, S.W., *April 1, 1870.*

I send Miss Garrett's<sup>1</sup> notes. I have written to promise support to Dr. Murray, duly notified, and to say with respect to School Board that, finding a diversity of interest between her and Huxley, I shall vote exclusively for the latter, but will do all I can by way of private canvass for her among those who are frightened at the thoughts of him. Two most disreputable looking chaps called here yesterday. They were a 'deputation' from Huxley's Committee, or perhaps the Committee itself, to ask me to be the treasurer of the funds collected. They explained that their brethren would feel more confidence in a treasurer above their own rank in life. The treasure, it is supposed, will not amount to more than £100. So I have opened an account this morning with Sir C. Scott. The only contribution at present is £5 of my own.

His views on the working of the Act in the country are given in a letter to a nephew two years later.

Simla, *October 17, 1872.*

. . . I am quite content with your action with regard to K. School. We shall see in the course of a few years (or at

<sup>1</sup> Afterwards Mrs. Garrett-Anderson.

least *you* will see) what School Boards develop into. I am very hopeful of their action in the towns; in the rural districts their operation must be much more doubtful, and at all events much slower. You say that H. tells you that the farmers are very anxious to avoid a rate; and again, you say that the parson will have to pay half the expenses out of his own pocket. Just so; and that is exactly the state of things which makes me wish for the pressure of the School Board. The farmers will always avoid rates as long as somebody else will pay the needful; but neither is it just, nor in any point of view desirable, that the expenses of schools should fall on the clergy. Whether the landowners and farmers pay by dint of voluntary subscriptions or of legal rate matters little; but I do want to hold the law well over them, and to make them pay. All this will be understood in time, but I have all along thought that several years must elapse before the new system is accepted in the country districts, and am quite willing to be patient.

As regards Catechism, as to which some very hazy and some very erroneous notions lie at the bottom of the clerical opposition to School Boards, as £. s. d. lie at the bottom of the opposition of the farmers, I may possibly write to you later on, but not now.

In considering the history of the revolution effected in the rights of married women by the legislation which began in 1870 and continued to 1893, a considerable place must be assigned to Mr. Hobhouse's address at the Social Science Congress at Birmingham, in October, 1868. Nearly ten years had passed since Mill had condemned the 'almost despotic power of husbands over wives,' and had maintained that wives should have the same rights and should receive the protection of the law in the same manner as all other persons, and the next year (1869) the protest was to be developed in his famous book on *The Subjection*



*of Women.* But there were strong prejudices against interference with what was regarded in many quarters as a fundamental condition not only of the peace, but of the existence of the family. When the first Bill on the subject came to the House of Lords in 1870, it was regarded with very great apprehension by so bold a social reformer as Lord Shaftesbury, and Lord Westbury and Lord Penzance succeeded in reducing it to a measure which practically affected only the earnings of married women. Professor Dicey, in his recent book on *Law and Opinion in England*, has commented on the slow growth of public opinion on the subject. No better solvent of this wide-spread prejudice could be found than Mr. Hobhouse's clear and temperate paper, and it was afterwards reprinted for the use of the Committee on Mr. Russell Gurney's Bill.

He began by showing how mistaken was the notion that to amend the law which gave the personal property and earnings of a wife to her husband was to strike at the general relations between husband and wife. It merely struck at the common law or the customary traditional law of England. Now this law was set aside already by every marriage settlement that was made, and the Court of Chancery had for generations been counteracting the effect of the common law by making it possible in various ways for married women to hold property independently of their husbands, and by recognizing the validity of contracts between husband and wife. It had in fact created separate property for married women, and this meant that the most enlightened English lawyers, those whose business it was to adapt the law to the progress of



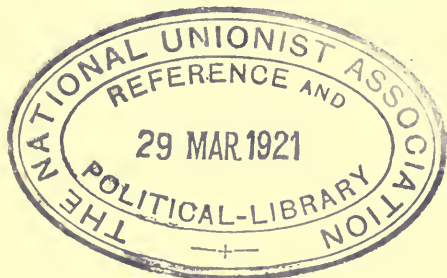
events, and make it tolerable to a civilized community, regarded the common law rule of giving all the wife's property to the husband as a bad rule, to be violated whenever there was property enough to admit of the intervention of trustees, or of the Court of Chancery. The paper went on to show that the evidence given before the Parliamentary Committee which had recently been sitting proved that the existing state of things was no harmless and unimportant anomaly. Of the witnesses it said 'they all unite in saying that the law works visible mischief; they tell us tales of wives plundered by worthless and dissipated husbands; of their inability to obtain payment of legacies due to them, because the executors are afraid of the husband's legal rights; of their savings being drawn from the places of deposit, of their furniture, and even their clothes, being taken to provide for their husbands' sensual enjoyments. And the law protects and encourages the husband in all this! The selfish hardened man may console himself by reflecting that he is only doing what he will with his own; the timid cowed wife is still further disheartened by knowing that her husband is within his legal right.' The general effect of the system created by the Court of Chancery side by side with the common law was that there was one law for the rich, another for the poor. Mr. Hobhouse's own remedy was to make married women, in the absence of contract, free and absolute owners of their own property. This reform had been effected in most of the States of America and in Upper Canada with excellent results.

'That objections,' he wrote, 'should spring up to such

a change as we are discussing is a matter of course. As in this world we have nothing good without its defects, so we have no bad thing without its good points. Partly from this cause, partly from the pervading habit of confounding that to which we are accustomed with the eternal principles of right, partly from indolence and fear of the unknown, there is nothing established for which reasons are not found.'

Mr. Hobhouse's reform was not achieved for many years, but an instalment was provided in the Act of 1870 which is associated with the name of Mr. Russell Gurney. That Act in its final form was, as has been said, a very tentative and limited measure, doing little more than giving the wife a right to her earnings. The Act of 1882 made the whole property of a married woman, whether it is hers at marriage or comes to her after marriage, her separate property, but under this Act she did not acquire full contractual capacity. If a woman had no separate property when she incurred a debt, any separate property which she might afterwards acquire was not liable to satisfy the debt. This anomaly was removed by the Act of 1893, which gave a married woman full contractual and testamentary capacity, except in so far as her power is limited by marriage settlements and the restraints on anticipation<sup>1</sup>.

<sup>1</sup> See Professor Dicey, *Law and Opinion in England*, pp. 369-93, for a full account.



## CHAPTER III

### INDIA

MR. HOBHOUSE was appointed to succeed Sir James FitzJames Stephen as Law Member of the Governor-General's Council in 1872. He took his seat in Council on May 25 in that year, and he resigned it on April 10, 1877, having served within a few weeks of the usual period of five years. When he was starting for India, Sir J. Coleridge congratulated him on the time he would have for reading, and told him that Macaulay, when going out as Law Member, took out with him the Delphian edition of the classics and read them all through. But Mr. Hobhouse was not long in office before he discovered that things had altered immensely in this respect since Macaulay's day. 'I wish,' he writes to a friend in England, 'Sir J. Coleridge could sit a day in my room and see the streams of papers that have to be attended to'; and in truth the mass of work he had to dispose of, even when not actually employed on any formidable legislative project, was such as to tax to the utmost the energies of the most laborious man.

The Law Member of the Governor-General's Council, like the other members, has to act in more than one capacity. As a member of the Supreme Executive Council, he has to assist in disposing of all the questions that come before that Council, and, having regard to the peculiar qualifications he brings to bear, it is often

of the highest importance that he should assert himself and take a leading part in the settlement of those questions, in whatever department they may arise, even though they may not involve anything that could be called a point of law.

Then as a member of the Legislative Council, which comprises, besides the members of the Supreme Council, a number of 'additional' members, official and non-official, he has to take by far the heaviest share of the work of legislation. He himself introduces and carries through the Council all Bills falling within the province of the legal expert, and he is further compelled by the exigencies of the situation to take a very large share of the work relating to all other Bills, revising them before they are introduced and sitting as chairman of the Committees of the Legislative Council to which they are almost invariably referred.

Lastly, he is the Member of Council 'in charge' of the legislative department of the Government of India—a department which is not only concerned with the work of legislation, but also performs for all other departments an immense quantity of advising work similar to that which is done in most Government departments in England by the legal adviser within the department.

The high qualifications for the discharge of all these important duties which Mr. Hobhouse possessed, as a man of rare intellectual ability, of high education, and indefatigable industry, as a learned lawyer and a practical man of business, were well known to all who had had to do with him during his previous life in England. But what perhaps above all things most impressed those who knew him in India was his

passionate love of justice, his vehement dislike of anything savouring of arbitrary action, his hatred of all shams, and his contempt for vain display and mere popularity-hunting. In certain respects, no doubt, as he himself was always the first to admit, he fell somewhat short of his two immediate predecessors. Maine, in addition to other high qualifications, was what is commonly called a 'jurist,' and his works have done more to popularize legal subjects, especially in their historical aspects, among English-speaking people all over the world, than those of any previous writer. FitzJames Stephen would probably have preferred the reputation of a working lawyer to that of a jurist—indeed he is said on one occasion to have defined a jurist as 'a damned fellow without briefs'—but at the same time he had a large element of what may be called the professorial spirit. Mr. Hobhouse utterly disclaimed all pretensions to anything of the kind. The Maharaja of Vizianagram one day in the Legislative Council spoke of him as 'one of the greatest and most learned and eminent jurists of the world.' Mr. Hobhouse's remark on this was quite characteristic of him. He said he was 'only a practising lawyer of somewhat plodding habits and some professional experience.' But in this he was very far indeed from doing himself justice. It was no doubt in the practice of his profession that he acquired most of his legal lore, and it was chiefly from the practical point of view that he approached any question that came before him, but he had a breadth of view and a grasp of principle rarely to be found either in the practising barrister or in the 'jurist.'

Like most men who have held the office of Law

Member, Mr. Hobhouse when entering upon his duties seems to have had no more knowledge of the country and the people than the average well-educated Englishman ; but there never was a new arrival in India who more fully realized the dangers to which his ignorance in this respect exposed him ; and his constant sense of those dangers was his best protection against them. Writing of a certain official, who was sent to India from England in his time with a view to the introduction of certain changes, he says, ‘ He came out with some purely theoretical notions . . . apparently thinking (as is not uncommon in England) that India is a good place to try crotchets in, and then he went through the process of finding out that facts are just as stubborn here as anywhere else, or indeed that facts are more stubborn in backward societies than they are in advanced ones.’ The temptation to plunge hastily and without due consideration into sweeping measures of reform is one from which even the permanent Indian official of long experience is not exempt. There is a pressing need of a reform of some sort. He feels he is the man of all others to carry it through ; the opposition he will have to encounter will not be very formidable ; he has not much longer to stay, and if the thing is to be done at all it must be done quickly. This temptation is of course the more dangerous in the case of a man who goes out to India to fill an important post for a brief period, and it is one against which Mr. Hobhouse was ever on his guard. He was an extraordinarily quick observer, taking an intense interest in all things Indian that came under his notice, whether in his office or outside, and he rapidly acquired a greater knowledge of the country and the people than perhaps



any man coming out from England to occupy a similar position had done before ; but the result of this was only to leave him more strongly impressed than ever with the immense difficulties that present themselves to the British legislator or administrator in India.

Mr. Hobhouse was fortunate in the men with whom he found himself associated on his arrival in India. The then Governor-General, the late Lord Northbrook, was a man very much of his own way of thinking. He was, indeed, somewhat more cool and diplomatic than was always agreeable to one so downright and uncompromising as Mr. Hobhouse was apt to be, when once he had solved his doubts and saw clearly what he believed to be the right course ; but the two men had a genuine respect for one another, and the relations between them seem to have been always most friendly. Writing in August, 1875, when they had been more than three years at work together, Mr. Hobhouse says : ‘ My own immediate chief in India is about as satisfactory a one as it is possible to have, firm and imperturbable, determined to command, and well able to do so ; but always ready to listen, and to give way when convinced ; clear-headed and industrious.’ Lord Northbrook, on his side, seems to have had the greatest confidence in Mr. Hobhouse’s judgement, and repeatedly sought his advice in regard to matters which would not in the ordinary course be specially referred to the Law Member. Mr. Hobhouse was fortunate also in his colleagues in the Supreme and Legislative Councils, with the exception of one member of the Legislative Council, whose idiosyncrasies are still remembered in India and elsewhere, and his mode of dealing with even that distinguished person left

nothing to be desired in point of good taste. He was fortunate too in this, that throughout his whole term of office the secretaryship in the legislative department was held by Mr. Whitley Stokes, a learned lawyer and accomplished draftsman, who had had many years' experience of India, who had been in charge of the legislative work of the Government of India from the year 1865, and who was destined to succeed Mr. Hobhouse as Law Member of Council. Mr. Hobhouse and Mr. Stokes did not, it is true, see eye to eye on some of the important subjects with which they had to deal, but they were always excellent friends and pulled well together. A great deal of the legislative work for which Mr. Hobhouse was formally responsible was really done by Mr. Stokes, and Mr. Hobhouse repeatedly referred in Council to this, disclaiming all credit for himself. Mr. Stokes, on his part, looked up to Mr. Hobhouse as a man 'to work under whom was not only a privilege but an education.'

In April, 1876, Lord Northbrook resigned, after continuing as Viceroy more than two years under the Conservative Government which came into office in February, 1874. The change must have been far from welcome to Mr. Hobhouse, especially as Lord Lytton, who succeeded to the Governor-Generalship, was in a special sense the representative of the Conservative Government, between whom and the Government of India certain serious differences of opinion, to be referred to later on, had arisen. It may be added that though both Lord Lytton and Mr. Hobhouse were, each after his own fashion, largely endowed with those qualities which go to the formation of friendships, they were too widely different in their temperaments and modes of

thinking ever to become close friends. Writing to a friend in June, 1876, Mr. Hobhouse says: 'Our new Governor-General remains very pleasant as regards personal relations. He is an interesting companion with much more general conversation, though I think not more real knowledge or cultivation, than Lord Northbrook. But I fear he will never be up to the grinding work which a Governor-General must go through who wishes to be the actual ruler of this country. . . . When he applies himself to business he is clever and quick and original, and quite strong enough to hold whatever he has made his own: but he is also, I think, impulsive and far too ready to rush into action on a *prima facie* view of a case; a dangerous quality for a man in his position, and especially for one who has not the strength to master great masses of material.' A month later he writes to another friend much to the same effect, but, notwithstanding certain differences of opinion, the two men seem to have continued to be fairly good friends to the close of Mr. Hobhouse's term of office, when Lord Lytton gave a farewell banquet in his honour, and made a speech acknowledging his services in highly complimentary terms.

Sedulously though he applied himself to study the country and the people, Mr. Hobhouse never omitted to seek the aid of persons of longer experience than himself. We find him constantly acknowledging his obligations to his colleagues in both the Councils for the advice and assistance they gave him; indeed in many cases he was content, having regard to their more intimate acquaintance with the subject under consideration, to place himself entirely in their hands and accept the humble rôle of putting their ideas into

shape. He was, moreover, in frequent communication with the judges of the High Courts, especially with Sir R. Couch and Sir R. Garth, who were the Chief Justices at Calcutta in his time and were both his intimate friends, as also with the leaders of the Bar. No man ever applied himself more diligently to the study of the vast masses of opinions, sometimes extending over hundreds of closely-printed foolscap pages, which are sent in by local officials, high and low, European and Indian, on every proposed measure; and unless an opinion was palpably worthless, as is apt at times to be the case, he always treated it with consideration and respect.

After Mr. Disraeli came into office in February, 1874, with Lord Salisbury as Secretary of State for India, various differences of opinion sprang up between the Government of India and the Home Government. The most serious of these arose out of certain proposals made by the Home Government in developing our relations with the Ameer of Afghanistan, which may be said to have been the starting-point of that policy which came to be called by different people, according to the view they took of it, the 'forward policy,' the 'imperial policy,' the 'jingo policy,' or the 'policy of swagger and grab.' Another serious difference arose out of the proposal made by the Home Government for the abolition of the customs duties levied on cotton goods imported into India. There were further differences which arose in the ordinary course of business, such as those relating to the working of the legislative machine in India, to the codification of the substantive law of India, to certain problems of famine relief, to the case of the Guicowar

of Baroda, which, though less serious in themselves, acquired an additional importance from the circumstance that they involved the question of the extent to which the Secretary of State may legitimately push his interference with the Government of India. On all these matters Mr. Hobhouse entertained very strong opinions, and he was not a man to make a secret of those opinions except so long and so far as his official position required him to do so. Some time after he had left India, certain people seem to have suggested that his opposition to the Conservative Government in regard to these Indian questions was prompted by party spirit, but those who were most closely connected with his work in India would probably be unanimous in saying that in taking, whether rightly or wrongly, the views he did upon those questions, he was entirely unbiassed by any consideration of party. The permanent Indian official is, as a rule, something of an agnostic so far as English party politics are concerned. He is apt to look upon any English ministry, Conservative, Unionist, Liberal, or what you please, as about as good or as bad as any other; and he is quick to detect and resent any attempt by a Governor-General or any one else fresh out from England to import sectarian political doctrines into India. But those who were associated with Mr. Hobhouse in India never appear to have charged him with any such attempt. That he was a strong Liberal in the broad sense of the word—in the sense in which most persons, of whatever political denomination, would wish to be considered Liberals—was no doubt patent to all; but he was not thought of as a strong party man, and it came quite as a



surprise to many of his Indian friends to see him taking up a decided position in political circles after his return to England. It may be added that the only one of the questions above referred to, which involved any party issue, was that relating to the forward policy, and those who knew Mr. Hobhouse best will hardly doubt that if the forward policy had been started by Gladstone and the Duke of Argyll he would have opposed it just as strongly as he did when it was started by Disraeli and Lord Salisbury. It would be manifestly impossible in the present memoir to enter at large upon the subject of the forward policy, the cotton duties, and the other questions above referred to, the discussions on which run to an appalling length in Blue Books, Parliamentary Debates, and elsewhere, but it seems desirable to give a brief account of Mr. Hobhouse's connexion with some of them.

The discussion regarding the forward policy was started by a dispatch from Lord Salisbury to Lord Northbrook's Government, dated January 22, 1875. In that dispatch Lord Salisbury directed the Government of India to take measures, with as much expedition as the circumstances of the case permitted, for procuring the assent of the Ameer to the establishment of a permanent British agency (by which was meant a European officer as political agent) at Herat, to be followed later on by the establishment of a similar agency at Candahar.

The Government of India replied in a long dispatch, dated June 7, signed by Lord Northbrook, Lord Napier of Magdala, Sir Henry Norman, Sir William Muir, Sir Ashley Eden, and Mr. Hobhouse, protesting against the order chiefly on the ground that all the



most competent authorities, both European and native (and among others Sir Louis Cavagnari, destined to play so tragic a part in this affair later on), were unanimous in thinking that we should find the Ameer most unwilling to receive permanent European political agents at any place in his dominions. This unwillingness, it was said, would not be due to any unfriendliness on his part towards us, but to the adverse feeling entertained to anything of the kind by an influential party in Afghanistan. The Ameer's position in Afghanistan, it was observed, was not so secure that he could afford to neglect any strong feeling of that kind. He would also, it was said, be influenced by a fear for the safety of any European officers that might be sent. It was added that, even if the Ameer were, under pressure from us, to give a reluctant consent to the proposal, we should gain no advantage, as our agent would in that event be in an unfavourable position for doing any good, and moreover any outrage on him would place us in an extremely embarrassing position. Lord Salisbury returned to the charge, in a dispatch dated November 19, 1875, in which he urged among other things that 'Indian diplomatists, by superior intellect and force of character, have in their intercourse with native princes often triumphed over more stubborn prejudices,' than those which the Government of India and their advisers attributed to the Ameer ; and he directed the Government of India to find some occasion for sending a mission to Cabul without avoidable delay to urge the proposal, especially by pressing upon the Ameer 'the risk he would run if he should impede the course of action which the British Government think necessary

for securing his independence.' To this the Government of India replied in a dispatch of January 28, 1876, reiterating their objections, and in particular urging again, as against the proposal to put pressure on the Ameer, that the advantages to be gained from the presence of British officers in Afghanistan depended entirely upon the cordial concurrence of the Ameer, and would not be secured by his reluctant assent after pressure put upon him by us<sup>1</sup>. It is curious to find, after the lapse of so many years, what might be called a generalization of this last argument in a speech Lord Lansdowne delivered in the House of Lords on the second of June, 1905, in reply to certain criticisms made by Lord Newton on the settlement effected by Sir Louis Dane at Cabul in the early part of this year. After admitting that our agreements with the late Ameer, re-established by Sir L. Dane with the present Ameer, were not in all respects everything that could be wished, and that successive Governor-Generals of India had desired to make improvements

<sup>1</sup> Paragraph 26 of the letter seems worth quoting in full. It ran as follows :—

'It is in the highest degree improbable that the Ameer will yield a hearty consent to the location of British officers in Afghanistan which the Mission is intended to accomplish ; and to place our officers on the Ameer's frontier without his hearty consent would, in our opinion, be a most impolitic and dangerous movement. Setting aside the consideration of the personal risk to which under such circumstances the Agents would be exposed, and the serious political consequences that would ensue from their being insulted or attacked, their position would be entirely useless. They would be dependent for their information on untrustworthy sources. They would be surrounded by spies under the pretext of guarding them or administering to their wants. Persons approaching or visiting them would be watched and removed ; and though nothing might be done ostensibly which could be complained of as an actual breach of friendship, the Agents would be checked on every hand, and would soon find their position both humiliating and useless. Such was the experience of Major Todd at Herat, in 1839, when his supplies of money failed. Such was the experience of Colonel Lumsden when he went to Candahar in 1857 as the dispenser of a magnificent subsidy.'

in them, Lord Lansdowne went on, ' But I do not think I shall misrepresent any who have held that high office, when I say that to one and all of them the idea of forcing such improvements and reforms upon the Government of Afghanistan was wholly repugnant. I think we should all of us have preferred to be content with a less satisfactory state of things, cordially accepted by the ruler of Afghanistan, rather than attempt a much more satisfactory and completely developed arrangement forced upon him by coercion of any kind ' (*Hansard*, cxlvii. p. 362).

Lord Northbrook, who seems in dealing with this question to have had throughout the support of Mr. Hobhouse and the highly distinguished Indian officers who were associated with him in the Council, resigned with effect from April 12, 1876, and was succeeded by Lord Lytton, who took out in his pocket, to be shown to his colleagues at such time as he might deem fit, a fresh dispatch from Lord Salisbury dated February 28, directing the Government of India to send to the Ameer a mission, which ostensibly would be one of mere compliment and courtesy, but which would afford an opportunity of discussing the relations between ourselves and the Ameer, and, among other things, of impressing on him the necessity of receiving English officers as political agents in certain parts of his dominions. On April 24, 1876, Lord Lytton caused a letter to be sent to the Ameer, informing him that it was intended to send a mission under Sir Lewis Pelly, and on May 22 the Ameer sent a reply to this letter, refusing to receive the proposed mission. Lord Salisbury's instructions of February 28 were then laid before the Council, with the result that a second

letter was sent to the Ameer on July 8, again urging him to receive the mission, explaining that the Viceroy's object was the maintenance of friendly relations between the two Governments, and adding in conclusion, 'It will for this reason cause the Viceroy sincere regret if Your Highness, by hastily rejecting the hand of friendship now frankly held out to you, should render nugatory the friendly intentions of His Excellency, and oblige him to regard Afghanistan as a State which has voluntarily isolated itself from the alliance and support of the British Government.' The discussion continued until the end of the year, when it was agreed that the Ameer should send his minister to discuss matters with Sir Lewis Pelly at Peshawur. The Peshawur Conference began on January 27, 1877, and the discussions went on until March 26, when the Ameer's minister died. From the beginning it was doubtful whether he 'was authorized to accept the *sine qua non* condition that British officers should reside on the frontier of Afghanistan to watch outside events,' and ultimately after much fencing he rejected it<sup>1</sup>. The negotiations thus broke down 'upon the essential point which was indeed the keystone defined by Lord Salisbury's dispatch of February, 1876<sup>2</sup>.' Sir Lewis Pelly returned from Peshawur on April 2; and, as Mr. Hobhouse's tenure of office came to an end a week later, it is unnecessary for us further to pursue the history of the events which culminated in the second war with Afghanistan. The Blue Books are silent as to the view Mr. Hobhouse and those who thought with him took of the proceedings to which

<sup>1</sup> *Lord Lytton's Indian Administration*, by Lady Betty Balfour, p. 135.

<sup>2</sup> *Ibid.*, p. 163.

we have been referring; but it appears that, at least at one critical stage, he dissented from the action proposed by Lord Lytton. Lady Betty Balfour, at page 64 of the work above cited, tells us that he, with Sir William Muir and Sir Henry Norman, dissented from Lord Lytton and the majority of their colleagues in regard to the proposal to send to the Ameer the letter of July 8, 1876, to which reference has been made. Their notes or minutes of dissent do not appear to have seen the light, and it is possible that they were recorded in such a form that they would not in the ordinary course of business be transmitted to England, but Lady Betty Balfour writes of Mr. Hobhouse and the other two dissentients as follows :—

They were of opinion that Sher Ali was acting within his right in refusing to receive an English mission, that the reasons assigned by him were substantial, and that the proposed letter was almost equivalent to a threat of war. They held that although stress had been laid on the temporary and complimentary character of the mission, its real object was, as the Amir well knew, to enforce the reception of permanent English agents, that we were not dealing fairly with the Amir if we omitted to state distinctly the object at which we were aiming, that if the temporary mission were accepted and the permanent mission refused our position would be embarrassing, and that we ought to resolve beforehand whether in such a case we should accept the refusal or resort to force. It was better, they thought, to wait until the Amir was in want of our assistance to help him out of difficulties, when we could make terms with him.

It only remains to add, as regards the main point under discussion during Mr. Hobhouse's tenure of office, that, at the conclusion of what may be called the first act of the war, Lord Lytton so far achieved



success that Sir Louis Cavagnari was installed as our agent at Cabul on July 24, 1879, but the massacre of him and his companions only six weeks later led to the abandonment of the idea of having permanent European agents in the Ameer's dominions, an idea which has not since been revived. Alluding to this subject in the course of a speech in the House of Lords in January, 1881, Lord Lytton, after a touching reference to his grief for the loss of his friend Cavagnari, proceeded as follows :—

Apart, however, from that great sorrow, my opinion as to the propriety of the course we pursued by acquiescing in the Ameer's strongly expressed, and apparently sincere, request for the support of a British mission at his court, is an opinion entirely unchanged by the abominable crime with which it was so ill requited. But although I think it was right, and even necessary, in the interests of all concerned, to make that humane experiment, undeterred by the risks it involved and of which we were not unconscious, I admit, my Lords, that the experiment has failed.

In regard to the forward policy generally Mr. Hobhouse entertained strong opinions, to which he gave expression in letters written to friends, and also in an article entitled 'Some Reflections on the Afghan Imbroglío,' which he contributed to the *Fortnightly Review* for September, 1880. He urges in the first place that the forward policy is immoral, that we have no right to seize other people's territory or forcibly to impose a protectorate on them merely for the purpose of improving our own position. He is severe on the stock pretexts commonly advanced in support of forward movements—the assertions that the mass of the inhabitants of the country in question are only too



eager to come under us, and that it is merely a few 'young bloods' or bad characters or bigoted and grasping priests that are against us; the repeated protestations that there is no idea of 'annexing' the country, which are no doubt absolutely true in the technical sense of the word as understood by experts, but which convey a totally false impression to the ordinary man; and so on. He scouts the notion that the mere proximity of Russia to our border would lead to disaffection among the ruling chiefs and the people of India. He asks: 'If Russian intrigues are so formidable to us in India itself, would they not be a hundred times as formidable to us in Afghanistan?' He further asks where are we to stop in our forward course? He compares the advocates of the forward policy to 'those simple speculators in geography who, feeling the North wind to be cold, invented a genial hyperborean region beyond it.' 'But,' he goes on, 'attempts to get behind the North wind only land us in thrilling regions of thick-ribbed ice. Flying from what is very bearable, we rush into starvation and destruction.' Lastly, he refers to the military difficulties to be encountered; but, whatever may be thought of some of his other arguments, it would probably be considered by most people at the present day that in dealing with these difficulties he rather understates than overstates his case.

The cotton duties were another subject of difference between the Home Government and Lord Northbrook's Government.

For a long period preceding Lord Northbrook's appointment to the Governor-Generalship, duties had been levied at the rate of  $3\frac{1}{2}$  per cent. *ad valorem* on

cotton yarns, and 5 per cent. on cotton piece goods and other cotton manufactures imported into India. These duties were simply items in the general import tariff, which comprised almost the entire range of possible imports, and were levied solely for revenue purposes and without any view to protection. They had, indeed, been imposed at a time when there were no cotton-mills in India and when, for practical purposes, there could have been no question of protection. That, low as they were, they did operate to some extent as a protection to the mill industry after it had become established in India is very probable. However that may be, the Manchester Chamber of Commerce in January, 1874, presented a memorial to the Secretary of State objecting to these duties, chiefly on the grounds that they were 'absolutely prohibitory to the [import] trade in yarn and cloth of the coarse and low priced sorts,' and that they 'increased the cost to the native population, or at least to the poorest of the people, of their articles of clothing, and thereby interfered with their health, comfort, and general well-being.' That memorial was referred by the Government of India to a Committee appointed for the revision of the tariff, and, while the matter was still under consideration out there, the Secretary of State (Lord Salisbury), addressed to the Government of India a dispatch dated July 15, 1875, in which, while stating that the protective effect of the duties was 'probably insignificant,' and that he did not attribute to them the effect of 'excluding English competition,' and thereby raising the price of a necessity of life to the vast mass of Indian consumers, he nevertheless insisted on the necessity of abolishing them as soon as the state of

the Indian finances might admit of this being done. He insisted on this, partly because such duties seemed to him incompatible with the system of free trade, and partly, or as he stated in a subsequent dispatch chiefly, for a political reason, namely because, as the protective effect of these duties had come to be exaggerated both in England and in India, the bitterness of feeling between the English and the Indian manufacturers would tend to increase if they were not soon abolished. 'The precaution,' he said in conclusion, 'has indeed been delayed too long. Some soreness even now will be felt, and more will be expressed, by persons who will trace such a policy to a preference of English over Indian interests. But the irritation will only extend over a wider surface if action is delayed, and may, if the delay be too far prolonged, become a serious public danger.' In a later dispatch, dated November 11, 1875, he reiterates his arguments, and at the close, after observing that 'the paramount importance of guarding the Indian treasury from financial embarrassment must be borne in mind,' he says, 'The entire removal of the duty should, however, not be adjourned for an indefinite period, but provision should be made for it within a fixed term of years.' The Government of India (Lord Northbrook, Lord Napier of Magdala, Sir Henry Norman, Mr. Hobhouse, Sir Edward Bayley, Sir William Muir, Sir Alexander Arbuthnot, and Sir Andrew Clarke) replied in a dispatch, dated February 25, 1876. They dealt with the question at great length and in much detail, and the conclusion to which they came was that, while 'by no means insensible to the advantage of reducing the duty upon cotton manufactures,' they regretted that

the then financial prospects precluded them from taking any immediate action in that direction, and that they entertained very serious objections to any measure which would commit future Governments to the entire removal of the duty. The two last paragraphs of the dispatch are worth quoting in full. They were as follows :—

Your Lordship, however, in the dispatches of July 15 and November 11, has mainly pressed upon us the desirability of removing this duty for political reasons. It is apprehended that discussions will take place in which the conflicting interests of England and of India will be urged, that Parliament will insist upon the repeal of the duties, and that an irritation, which would be avoided if the duties were dealt with at once, may thus be created to the injury of both countries.

We trust that this anticipation may not be realized ; but, while we should much regret that any such feelings should be excited on the part of any portion of our fellow countrymen at home, it is our duty to consider the subject with regard to the interests of India ; we do not consider that the removal of the import duty upon cotton manufactures is consistent with those interests, and we hope that the statement contained in this dispatch of the whole circumstances of the case, and of the condition of the Indian finances, will show that the real effect of the duty is not what is supposed, that it cannot be removed without danger to the Indian finances, and that the imposition of new taxes in its stead would create serious discontent.

Lord Salisbury's answer to the Government of India was dated May 31, 1876, after Lord Lytton had succeeded Lord Northbrook. It too is a very lengthy letter, but the only points in it which it seems necessary to note here are, first, that he explained (paragraph 5)

that he never contemplated the imposition of fresh taxation for the purpose of abolishing the cotton duties, and, secondly, that he declared (paragraphs 8 to 10) that he never meant to say that the duties were not protective, and proceeded (paragraph 15 et seq.) to show that they were.

The matter, at least so far as Mr. Hobhouse was concerned, seems to have rested there until March, 1877, when Sir John Strachey, who had succeeded Sir William Muir as Finance Member of Council in December, 1876, made his financial statement. Sir J. Strachey was a strong advocate for the abolition of all Customs duties, and he accordingly considered that, though owing to the financial position he could not on that occasion do anything towards the abolition of the cotton duties, he was bound to make a profession of faith. Upon this Mr. Hobhouse, Sir Edward Bayley, and Sir Henry Norman recorded a dissent dated March 11, 1877, the grounds of which, as stated by them, were as follows :—

1. Because we do not understand it to be the intention of the Secretary of State in Council to debar the Governor-General in Council for the time being from a comprehensive consideration of the present aspect of any subject-matter upon which they have to pass laws.

2. Because we understand the Secretary of State in Council, so far as he has given orders on the subject, to have laid down that the repeal of the duties on cotton goods is out of the question until a surplus income has been gained.

3. Because there appears to be no chance of a surplus income for at least two years to come, and the period of deficit may be much further prolonged.

4. Because we think it essential that the Government of the day should not be embarrassed by unnecessary promises



and pledges in considering the question which taxes it is most desirable to reduce or repeal at any given time.

5. Because we think that, whenever the possession of a surplus enables it to reduce duties at all, the Government should carefully consider whether it is not desirable to operate upon other duties, e.g., the salt duties, the sugar duties, or the export duties, in priority to the import duties; in our judgement, each of these three items of revenue requires alteration far more urgently than do the duties on cotton goods.

6. Because independently of pure financial questions, we think it impolitic to disregard the fact, that the repeal of duties on cotton goods in India, in preference to other injurious taxes, is viewed with great suspicion and dislike by a large portion of the educated natives of this country, and is likely to cause much irritation among them.

7. Because the announcement now made is calculated to withdraw from the Government of the future the free and unembarrassed discussion of the considerations above indicated, to say nothing of others which may then present themselves.

Here Mr. Hobhouse's official connexion with the question came to an end, as he resigned his seat in Council about three weeks later; but his interest in it continued unabated; and, in his unofficial utterances regarding it, he did not mince matters. The Home Government, in directing the abolition of the duties, had, as already stated, professed to justify their action chiefly on 'political reasons' in the higher sense of the phrase, but to rely also on orthodox free trade principles. Mr. Hobhouse was disposed to think that the 'political reasons' by which they were actuated were of a different, and somewhat less exalted, nature, and that the enthusiasm they professed for free trade had little weight in determining their policy. How far he



was right, we need not consider here, but a great many other people thought as he did.

Nor can we go into the subsequent history of the matter. It is enough to say that Manchester appears to be satisfied with the settlement arrived at some years later, and which now holds good, that the grievance of the Indian producer is little heard of in these days, but that it is not forgotten, and that there are some who apprehend that, if India is ever called upon to co-operate in a fiscal scheme like that propounded by Mr. Chamberlain, the question may be reopened and we may have all the fat in the fire again.

The extent to which the Home Government may legitimately push its interference with the Government of India was a question that was much debated during these months, and Mr. Hobhouse's letters to his friends during the period referred to contain many complaints of the tendency of Lord Salisbury and his Council to interfere in matters on which they were ill-informed and on which they ought to have trusted the Government of India. Over-interference by the Home Government is likely to lead to over-interference from other quarters as well. As he observes with a good deal of truth, 'Parliament may, and I think will, be content to leave much to rulers in India, but it is quite a different thing when the ruler sits at Westminster.' It is probably the same with the press and the public in England; and thus the larger question arises as to how far it is possible for people generally in England to exercise any beneficial influence over a dependency so distant as India. This question he discusses in one of the lectures he

delivered after his return to England, and as the observations he then made refer in a somewhat pointed manner to certain of the controversies of the period we are now considering, they may appropriately be quoted here. They are, moreover, well worth quoting because, though all persons may not agree in some things he said in illustrating his views, the main principles he laid down seem eminently sound, and will probably commend themselves to all persons familiar with the problems of Indian administration. After referring to the opinion entertained by some that people in England cannot possibly understand enough of Indian questions to do anything but mischief by interference, he proceeds as follows :—

I agree to that so long as it is confined to what I may call specific acts of government as distinguished from its general principles. Of course such a distinction is impossible to define in words, nor could it always be observed in practice. Yet it is a very substantial distinction: and of the majority of cases it would not be difficult to say whether they fall within one class or the other. If we were to attempt generally to dictate from England who should be appointed a *Monsiff* or a *Collector*, what places should be erected into municipalities, where and how troops should be quartered, how far a chieftain of *Kattiawar* should be trusted with the power of punishing offenders within his territory, we should act in ignorance, and throw everything into confusion. On the other hand, if we cannot decide here upon the broad principles on which our dependencies are to be governed, we are of all men the most miserable; for we have more dependencies than all other nations put together; and for their government, and all its consequences to ourselves, we are to be wholly at the mercy of our agents.

Between these extremes there are of course many cases

as to which different minds, admitting the broad principles that we should exercise general supervision and abstain from minute interference, will yet come to different conclusions as to the question under which principle they fall. I say it is impossible to define, or even to classify, a particular case beforehand, but I may illustrate my meaning by an example or two, at least so far as to show that I am not using vague words without meaning.

Take such a case as the deposition of the Gaekwar of Baroda. It is a very important principle that our Indian officials shall not under colour, or with the sincere view, of preventing internal misgovernment, draw native territory under our direct dominion; but that principle once secured, as in the case of Baroda it was, it is also very important that the Indian officials should be left to judge of the kind and degree of misconduct in a ruler which will justify his supersession in favour of another, and of the method of effecting such a supersession. In that case I think that people here were disposed to interfere in a way which would have been unwise, even if they had possessed much more exact knowledge of the case, and which the slender stock of their knowledge made more unwise.

Take again the case of a great famine. There are those who think that acute famines are a necessary and natural check on the undue multiplication of the human race in India, and that they are the means of preventing even worse miseries. There are those, again, who think that every possible effort, even though involving great sacrifices and risks, should be made to save the sufferers. That is a broad difference of principle which may be perfectly well understood and decided in this country, but the object being decided, the mode of action should be left to those who are on the spot.

So with taxation. If the system of taxation were found to violate great principles, economical or political, there would be good reason why we should judge it in this country and insist on its alteration with more or less rapidity. But

to interfere with particular taxes on the ground that they are slightly more or less hurtful than others, is to interfere in things that we cannot judge of. And that course leads at once to what we have lately witnessed and are now witnessing, an agitation in this country by a particular commercial interest to have the taxes of India adjusted so as to benefit that interest.

You will thus see that I should deprecate interference with the local government of the dependency even in very important departments of action, provided that the main principles and objects of our Government are not being infringed. But to say that we cannot judge to what ends the Government of India should be directed is a desertion of our position as a governing people, and an abnegation of our right to have any dependencies at all.

In point of fact it has been pressure from this country more than anything else which has introduced the most important principles of our Government into India. Since the prosecution of Warren Hastings no Government has treated native princes with his barefaced contempt of justice. Lord Cornwallis's great reforms were carried by him when coming fresh from England, and armed with new and special powers by Parliament for the purpose of overriding opposition; and the spread of education was carried mainly by Lord Halifax, aided by a body of opinion in this country.

I might mention other matters; but time presses, and I will go on to state briefly some points on which I think that we in England ought to form our opinions, and can do so if we will only take as much trouble as we do over nearer political problems.

I think we can decide which of the two schools of Indian statesmen is most to be trusted: those who would press forward alterations from without, or those who would prefer the slower process of growth from within. I think we can insist on having Indian taxation adjusted by those who can view the whole field of it, and not by votes of the House of

Commons on representations made as to a particular tax by a particular English interest to whom it is obnoxious. We may decide for ourselves whether it is wiser to give people the keys and rudiments of knowledge or to withhold them; whether or no it is wise to stifle the infant vernacular press of a country because of a few petulant utterances; whether a system which practically excludes from high office all the natives of a country can be a satisfactory or a durable system; whether we should govern with an eye to the perpetuation of our own rule, or with the aim of raising the Indians in the scale of peoples so far as we can do it.

Above all I should urge my countrymen seriously to study the question whether further aggrandizement in India will bring us anything but further responsibilities and dangers. That is a matter of which we can judge even better from our point of view than from the Indian point; and it is one on which it is most urgent that a healthy public opinion should be formed in England. For the most part, statesmen in England have disapproved of the aggrandizements effected in India. On the occasion which is still under controversy, the order for aggression was given from England to reluctant officials in India, but that certainly would not have been done had there been a body of adverse opinion in England. I wish to see such a body of intelligent opinion in England as will supply a constant check to the spirit of aggrandizement or Imperialism in India; but if judgement is to go against me, I would far sooner see my countrymen aim at foreign empire with their eyes open, and knowing all their responsibility, than be plunged into it blindfold and helpless.

To sum up this part of my subject, I will venture to lay down four brief propositions. First, whether we wish it or no, new modes of communication have necessarily brought the Governments of England and India into closer contact. It is certain that, whether its head be Lord Hartington, Lord Salisbury, or another, the India Office will govern India more essentially than in former times.

Secondly, the Secretary of State for India wants intelligent



guidance and control from the nation at large, just as much as any other Secretary of State.

Thirdly, increased attention to Indian affairs does not necessarily mean more interference with the details of government there. It means a greater power of judging when to interfere and when not, and of interfering with effect when judged necessary.

Fourthly, the more people pay attention to Indian affairs, the higher will be the general level of knowledge in that department, and the more easy we shall find it to send out men competent to take part in the government there.

The work of legislation during Mr. Hobhouse's term of office was very heavy. Among the laws passed, there were elaborate Acts applicable to the whole of British India, or to parts of it, relating to executive matters, Acts for the assessment and collection of the land revenue, Acts providing for the establishment and working of municipalities, Acts regulating irrigation, emigration, shipping, and ports. Besides the Procedure Codes, to be presently referred to, there were important Acts touching the administration of justice—Acts regulating the constitution of the Courts and the admission of appeals, and so forth. Then there was an Act regulating the Presidency banks, the Act for the registration of documents, and the North-Western Provinces Rent Act, which, with the Revenue Act for that province, were deemed so important that it was thought well to hold a special sitting of the Legislative Council at Agra in 1873 to admit of their being discussed with the aid of the local authorities. An immense amount of work was also done with a view to clearing and improving the Indian Statute Book. Consolidation Acts, Acts repealing obsolete enactments, Acts defining the local



extent of various enactments and providing a power to determine what enactments were in force in certain remote parts of the country, and to extend to them enactments not already in force there, were prepared and passed. The responsibility and the credit for work of the description last mentioned rested chiefly with the secretary, Mr. Whitley Stokes; but many difficult questions presented themselves from time to time, for the solution of which Mr. Hobhouse's aid had to be invoked.

Under the head of codification the great work was the Revised Code of Civil Procedure—Act 10 of 1877—which extended to 314 pages of the Statute Book, and which, being to a large extent a new law, involved an immense amount of work, especially on the part of Mr. Stokes, to whom Mr. Hobhouse gave the chief credit for it. The High Courts Criminal Procedure Act, 1875, and the Presidency Magistrates Act, 1877, though not called codes, were really codes of criminal procedure for the courts concerned. The Specific Relief Act, 1877, was a code occupying a place midway between codes of procedure and codes of substantive law; and it has a special interest for us, inasmuch as it was pre-eminently the work of Mr. Hobhouse himself, who, owing to his having practised so long in courts of equity in England, was singularly qualified for such a task.

It remains to speak of the more arduous work of the codification of the substantive law, which has given rise to much discussion from time to time in India as elsewhere.

The fact that, with all this great activity in Indian legislation, no great code of substantive law was

placed on the Statute Book in Mr. Hobhouse's time has sometimes formed the subject of comment. His two immediate predecessors had each succeeded in passing an important code of substantive law ; very soon after his departure his successor, Mr. Stokes, produced a great programme for the codification of various other portions of the substantive law, which he carried out to an important extent before leaving India ; and the circumstance that nothing of the same sort was accomplished by Mr. Hobhouse would seem to have suggested to some persons that he had taken upon himself to throw over what, up to his time, had been an accepted scheme of legislation. But any such suggestion would be entirely devoid of foundation.

It is true that, as already shown, he had a strong faith in the natural growth of human institutions generally, and of law in particular, and that he was not an enthusiastic advocate for the rapid codification of great masses of substantive law. He doubtless took a more limited view than either of his two immediate predecessors or his immediate successor of what could be safely done by the Indian legislature in that direction, and in this his colleagues, or the majority of them, appear to have agreed with him ; but neither he nor they were persons lightly to take upon themselves to reverse a policy so long established as that of the gradual codification of the law in India. The truth is that at the time of Mr. Hobhouse's arrival in India the position with reference to this matter was somewhat peculiar. As Sir Courtenay Ilbert observes in his interesting sketch in *The Speaker* of December 17, 1904, Mr. Hobhouse 'succeeded an intellectual giant, who had compressed into two years

and a half labours which, with an ordinary mortal, would have sufficed for at least a dozen years, and who had left India staggering and breathless under a wave of new legislation.' Sir James Stephen himself, ardent an advocate for codification as he was, expressed an opinion in the Legislative Council on April 9, 1872, immediately before his retirement, to the effect that, if his Contract Act was passed (as it was), no further codes of what is properly called substantive law would be needed for a length of time, except a Code of Easements and a Code of Torts; and it may be here observed that it was ultimately decided, *omnium consensu*, that a Code of Torts was not desirable. It may be added that, just then, something like a reaction had taken place in regard to such matters. In his *Legislative Forms and Methods* (p. 138), Sir Courtenay Ilbert says that 'considerable uneasiness had been caused both in England and in India by the rapidity and amount of recent Indian legislation, and Mr. Hobhouse on his departure for India received strong hints that it would be desirable to slacken the pace of the legislative machine. His own observation and experience after arrival in India satisfied him of the prudence of this advice, and induced him to direct his energies to work, which, if it attracted less public attention than that of his immediate predecessor, was not less practically useful.' It may, however, be best to let Mr. Hobhouse speak for himself. Referring to this subject in the Legislative Council on October 12, 1872, he made the following observations:—

Now at our last meeting, Sir John Strachey intimated that some people had imbibed the notion that the work

recently done, or some of it, was to be undone; and he took occasion to contradict that notion, and to speak in terms of praise, high but not too high, of those who had borne the principal share in the work. I need not repeat what I then said. I will only again express my thanks to him for having said so well what we all think. But it would, perhaps, be useful if I were to add something by way of distinguishing between the various lines of work to be pursued, all parts of one great whole; and showing why some should be preferred to others. Of course I am not presuming to speak for the Government, and personally I shall discharge, as well as I can, whatever duties are set me. But looking at the matter with the lights I have at present, it seems to me most likely that the work of codification proper will advance, at all events for a year or two, at a slower rate than lately.

When I speak of codification proper, I mean the reduction to writing of unwritten laws. The rearrangement and combination of written laws is also codification, but it is codification of that which is already codified, and is usually called consolidation.

Now consolidation, dealing with written law, need not involve any change at all; and though it often brings about some change, yet it is often mere change of detail, and sometimes very little of that. Unwritten law stands in a different position; of course everybody knows that what we call unwritten law is not unevidenced by writing. But it is contained in many different writings, records of old traditions, and of the utterances of different lawyers, usually imperfect, often conflicting, and never possessing an absolute or final authority which no one is at liberty to dispute. It is as it were floating in the air, syllabled by many voices, which it is the privilege of the skilled judge to hear, and his duty to combine into harmony for the purpose of the case before him. It therefore possesses a flexibility and a power of adaptation which cannot be possessed by the written law.

Now, to reduce these floating elements to a single authoritative writing necessarily involves change. No human genius, or collection of human geniuses, can express in language the result of a quantity of traditions and judgements so as to give their precise equivalent: that there should be nothing over and yet no lack. Nor can law be expressed for the first time in language of final and indisputable authority without acquiring a bearing and a rigidity which it had not before. Few probably could attempt the task without finding that the constant imperfection of their instrument, and the occasional aberration of their own conceptions from the true mark, lead them to expressions which, when they come to be interpreted by others, work unforeseen results.

It is obvious, therefore, that from the very nature of the case, the codification of unwritten law must bring about much more change than that of the written law. And this leads me to the following reflections:

First.—Every change brings some unsettlement. If it is a wise change, it settles society on a firmer basis than before: but there must be some disturbance in the process. We are acting for people who, we are told, do not accept change readily. They have no representative institutions, and no organized machinery for making their sentiments known, so that we do not learn immediately what they are thinking. It therefore seems more prudent not to make many large changes simultaneously, lest the inevitable disturbance should be too much multiplied; nor in too rapid succession, that we may learn something of the working of one before bringing on another.

Secondly.—As I have observed before, every great legislative measure must have its imperfections. Some are congenital with it, some spring from the circumstance that it is interpreted by minds other than those which framed it, so that unintended consequences are brought about. These imperfections will be disclosed by the wear and tear of daily work. And it is of greater moment for a time to



watch the working of the important laws actually passed, and to assist it when necessary, than to pass others which, of course, would have their defects too, perhaps in much greater number.

Thirdly.—Supreme legislators may think that I take too professional a view of the matter, but I believe that no laws can work well unless lawyers are well acquainted with them. It may not be always true that ‘whate’er is best administered is best,’ but it certainly is true that without good and accurate administration no principles and no rules can work well. Such administration cannot be had from men who are not thoroughly familiar with the law they are administering. Now I hear from judges and others<sup>1</sup>, some apprehensions lest they should be found wanting for some time in their knowledge of the new bodies of law. Nor is this surprising, because a lawyer gets his law ground into him by daily practice, and is never thoroughly at ease with it, and cannot apply it with promptitude and accuracy, till that process has taken place. If, therefore, we present new laws too rapidly to those who have to apply them, we run much greater risk of miscarriage, and of having to do some of our work twice over, than if they come more gradually.

There is yet another reason why the work of codification can hardly go on so rapidly, and that is, that the principle of many recent Acts has brought in their wake the necessity of much legislation, of a local and subsidiary kind, but still legislation. It has been of late years a frequent practice with this Council to pass laws laying down certain principles and limits of action, and then leaving local governments to apply the principles by means of detailed rules.

<sup>1</sup> A certain native judge in the Punjab, who had learned his work under the old Criminal Procedure Code of 1861, after some attempts to study Fitzjames Stephen’s revised code of 1872, which comprised 540 sections and was to a very large extent a new law, exclaimed in despair ‘Lumber bhi nahin raha’ (‘Even the numbers have not been left’), meaning that the order of the sections had been entirely altered. That code and two other big codes, comprising in the aggregate nearly 1,000 sections, were so timed as all to come into force on the same day, and Mr. Hobhouse found it necessary to pass an Act postponing the operation of the biggest for some months.



The plan seems, if I may say so, to be excellent, and peculiarly suitable to the circumstances of India. But the working of the law, for good or ill, depends very much on the frame of the rules. And we have recently had some instances in which the law and the rules together have brought out some unexpected and not very satisfactory results. It will, therefore, be necessary to bestow more attention upon these codes of rules, and, if necessary, to come to the Legislature for amendment of the laws under which they are framed.

I hope it will not be considered that by these remarks I intend to disparage the work of codification ; because I do not mean that. It is certainly far the most difficult of all the work a legislator can be called on to do, and makes the greatest demands on legislative genius. It requires the greatest amount of mental labour and of mental power. What I mean is, that at this juncture, just after large measures of codification have been passed, the other objects I have mentioned have greater claims on our attention.

After Lord Salisbury became Secretary of State in 1874 the India Office pendulum, which had pointed to delay and caution in 1872, took (as Sir C. Ilbert remarks) a swing in the opposite direction ; and a dispatch was sent out to India, for which Sir Henry Maine seems to have been to a large extent responsible, urging the necessity of pushing on the work of codification. The Government of India in reply, while fully recognizing the importance of codification, dwelt on the necessity of proceeding slowly and cautiously in the work, and on the risks and evils attending rapid legislation. The controversy continued, and the following extract from a letter written by Mr. Hobhouse to a friend in England in July, 1876, will serve to show his attitude with reference to it :—

Maine is a very clever fellow, and a good fellow too, I think. But he speaks so much in generals, always without referring to details, usually I believe without studying them, that everything he says requires to be qualified by collation with the facts. When he says that I am opposing myself to codification, he says what is only true *sub modo*; the truth is, that I am opposing codification after his method: codification in too great a hurry, codification of subjects which we don't know enough about to codify, codification of matters which touch the most delicate social questions, codification of other matters about which no human beings ever dispute. In short, I insist upon considering time, place, and circumstance before I codify, and upon knowing what law is to be enacted before I propose to enact any. The India Office is insisting on codification (as it does upon other things) on purely abstract grounds, and with the obvious intention of having an English Commission to find out laws for India. There has been a very curious correspondence on this subject, which I suppose the world will see some day. It is a fine specimen of the *a priori*, abstract, transcendental mode of treating practical subjects which prevails in high quarters just now.

That Mr. Hobhouse's opposition to the India Office went no further than he stated in that letter is pretty clear from the fact that all this time he, in conjunction with Mr. Stokes, was working hard at a revision of the draft code relating to the transfer of property, which was sent to England before he left India, and which, after undergoing further transformations, ultimately became law as the Transfer of Property Act of 1882. That, it should be explained, was the only draft code of substantive law which, under the system then in force, it was open to the Law Member to take in hand during Mr. Hobhouse's term of office. According to

the scheme for preparing codes for India, which was started under Section 28 of the 16 & 17 Vic. c. 95, the first drafts were to be framed by a body of Commissioners in England, and were to be transmitted to India to be passed by the Legislative Council there, with, it need hardly be said, such modifications as that Council might think fit. The Commissioners appointed for this purpose from time to time prepared several drafts which were sent out to India. In the year 1870 some of these drafts had been passed into law, and some were still standing over when the distinguished men then serving as Commissioners, being dissatisfied with the way in which their work had been treated in India, resigned. At the time Mr. Hobhouse went out to India there were only two of the Commissioners' drafts remaining to be dealt with, namely, the Transfer of Property Act already mentioned, and a draft on the subject of promissory notes, bills of exchange, and cheques. This latter draft had been got into shape and was introduced in Council by Mr. Massey in 1867; but the mercantile community were much opposed to it and it was dropped. Sir James Stephen did not attempt to revive it because, as he explained, it had been 'laid aside as unsuitable both to English merchants, who naturally wish to follow the law of England, and to native merchants, who have customs of their own about Hundis, which it is not desirable to interfere with.' Mr. Hobhouse on his arrival had consulted the leading merchants and leading lawyers regarding it, with a view to taking it in hand again; but they would have none of it. Thus only the transfer of property draft remained for Mr. Hobhouse to deal with. If additional codes were to be started,

the machinery for producing the first drafts having broken down, some substitute for it had to be provided; and here a difference of opinion arose. The Secretary of State proposed to entrust the work to a small body of eminent draftsmen in England. The Government of India, on the other hand, insisted that the work should be done in India, and the discussion was still proceeding when Mr. Hobhouse's term of office came to an end. Ultimately the Secretary of State gave way, and Mr. Hobhouse's successor became free to propose such codification as he deemed fit. It is not, of course, intended to suggest that, if Mr. Hobhouse had been placed in a similar position, he would have availed himself of his freedom to the same extent as Mr. Stokes did. Indeed, enough has been said to indicate the contrary; but this account of his attitude to the whole question will clear away some misunderstanding.

Mr. Hobhouse gave some lectures on Indian subjects after his return to England, from which some extracts may be given to illustrate his views.

When I first went to the country I was under the impression, derived from books, that Indian caste meant only the well-known fourfold division; and the first idea conveyed to me by actual contact with the reality was that caste was a gigantic system of trades unions for the purpose of securing employment to as many hands as possible. For I found that my servants were very fond of setting up their caste as a reason why somebody else, and not they, should do particular pieces of work. Of course the excuse was sometimes a feigned one and a mere attempt on the credulity of a new comer, but often it was genuine. However that might be, I soon found that the trades-union view of caste was a very shallow one; that the institution is one of the

most powerful kind, pervading the whole life of those who are subject to it, and, though mixed up with many trivial and many inconvenient observances, yet supplying all the sanctions of law, morality, and religion to the conduct of daily life. Caste then, as it seems to me, is the strongest possible preservative of society on the small scale, and it possibly accounts for the sameness of character preserved in the different classes of Indians through long ages and numerous dynastic changes. On the other hand, it is absolutely destructive of society on the large or national scale. For how can people combine together for a length of time or for any great purpose, who must not vary their occupations, who must not travel across the sea, who must separate from one another for the most ordinary purposes of life, such as eating, under peril of defilement?

Now it will be seen that the notion, a very common one, that there is such a thing as an Indian nation is a pure delusion. In the first place, the population consists of many nations, quite different in type and origin, speaking quite different languages, and in all grades of civilization from the lowest level up to a very high one. In the second place, there are two strongly antagonistic religions. In the third place, where the great prevailing religion would seem to form an overpowering element of fusion, we find that it compels disunion by carving up society into a number of small divisions, each more or less repellent of the other.

This division, as he observes, has made it easier for us to conquer India and to hold it; but it adds greatly to the complexity of the problems we have to solve there. He begins his second lecture by asking the question 'What ought we to be doing in India?' and observing that from the time of Lord Cornwallis it has been generally admitted that we ought to govern India for the benefit of the Indians. But then comes the further question, How best can this be



done? and his remarks on that question go so far to explain his attitude towards many of the problems with which he had to deal, that they are worth quoting at some length.

There are (he observes) two schools of statesmen, who, agreeing in this main point and in much else, differ as to the mode and degree in which we ought to introduce into India the social and political methods which we have found best for England. One school has a firm belief in the capacity of laws and political arrangements introduced from without to mould the character of nations; and they desire, therefore, to introduce as quickly as possible the latest outcome of European civilization, in the confidence that our Indian subjects will grow up to it. The other school maintains that laws and institutions must grow from within; that external arrangements are of little use unless the people for whom they are made is prepared to receive them; that the best and most permanent laws are the outgrowth of antecedent customs or convictions; that, in order to govern a people wisely, we must study their feelings, their intelligence, and the actual working of their present usages; that in India we are very much in the dark on all these points; that it therefore behoves us to be extremely cautious how we disturb any existing custom that is not manifestly noxious, or on the mere speculation that some other practice will work better; that these principles, applicable everywhere, are especially so in India, where custom has the force of religion, and is the very life-blood of the people.

I will just illustrate the position of these two schools with reference to an actual controversy. It is proposed to introduce into India a simple uniform system of weights and measures. Nobody doubts its utility if it is practicable. The objectors say that the people are not nearly educated enough to use it; that it runs counter to all their existing methods, and will only make confusion worse confounded.



Its supporters say that if once made law the people will soon learn its value, and that it is our duty to educate them up to it. 'If,' said one speaker, 'the ignorance of the people was to be received as a reason for not adopting improvements, India would be in a very bad way indeed.'

I think that the former of these schools is prevalent chiefly among those who have spent more time in England than in India, and the latter among those who have worked chiefly in India. But on the very rare occasions when our Legislature has spoken on the subject, it has inclined to the latter or cautious school. For instance, when a Commission was set on foot to make laws for India, it was ordered that first careful inquiries should be made, and then that the Commission should suggest such alterations as they thought good, due regard being had to the distinction of castes, differences of religion, and the manners and opinions prevailing among different races, and in different parts of the said territories.

Nevertheless, it happens every now and then that our Indian administrators are severely taken to task for the slowness with which they introduce improvements into India, and there arises a feverish impatience to make alterations. And as I am one of those who think that we have proceeded at least as fast as the country can bear, and that we run much more risk of failure from rapidity than from delay, I will try to explain and to illustrate some of the difficulties which are felt by those who desire to base all new arrangements on the footing of their adaptation to the wants and capacities of the people.

Some of these difficulties you will have anticipated from what I have said before of the size of the country and the numbers of the people, and I will not dwell longer on them.

Another obvious difficulty is the difference of language, for people never can communicate with one another quite so effectually when one of them uses a language in which he does not think. If, indeed, there were free and equal inter-

course between European and Asiatic, the difficulty of language would be much lessened, but the intercourse is very constrained.

In the first place all the Indians, even the upper ranks, feel when with a European that they are in the presence of the governing class; and being, many by temperament, and most by reason of long traditions of despotic rule, timid towards their rulers, they often shrink from saying what they are thinking.

Then the Hindoo will not eat with a European. People laugh at us for our habit of dining together, and say sarcastically that the way to an Englishman's heart is down his throat. But those who have lived in a country in which people will not eat together, will feel that the reason and the laugh, too, are on our side; that we are right; and that a most valuable instrument of ascertaining the real character and the true feelings of one's neighbours is thrown away by refusing to eat with them. This practice of eating separately is also shared by the Mahomedans, who have either borrowed from the Hindoos, or retained after conversion, some of the incidents of caste.

Another bar to intercourse is the condition of the ladies. I am told that there is nothing in the Hindoo religion, or in their old traditions or practices, which enjoins the seclusion of women. Perhaps they have borrowed the practice from the Mahomedans in return for the caste customs which they imparted to the Mahomedans; but from whatever cause, the women of the upper classes are not seen by strangers. Even if they did come abroad, they are kept in such a state of utter ignorance as quite to unfit them for association with educated persons.

The obstacles to intercourse do not all come from the Indian side, though I think that most of them do. But Europeans in India are few in number, they are all very busy men, and it is a most serious cause of weakness that as a rule they are perpetually changing their posts, and that each spends a very short time, sometimes only a few months,

in any one locality. A mere bird of passage like that cannot have any very fruitful intercourse with the residents in his district.

Again, though I always insist that the Indian Civil Service is as noble a service as any in the world, and though I am proud of having belonged to it, though only for a short time, and only as a sort of supernumerary, its members have their faults, which are the faults of a dominant race. It is not to be denied that some of them, particularly I believe among the younger men, commit the great mistake of despising the people over whom they bear rule ; that they omit to consult them when they may usefully do so ; that they snub them when unpalatable advice is given ; and that thus they lose opportunities of valuable information, and repel the Indians from their side.

I think also that the rapid communication between India and England, though most useful in other respects, has widened the distance between European and Asiatic. The effect of it is, that no Englishman now looks upon India as his home, as many used to do ; but either by visits, or by constant letter-writing, he keeps his home in England.

If he brings out a wife or sister the gulf becomes wider than ever. An undoubtedly beneficial change, the great increase of English ladies in India certainly has the effect of more completely separating the two races, for, as a rule, the foreign ladies will have nothing to say to the natives, and the males of the family, having now more domestic attractions, seek native society less than they used to do.

Perhaps all the difficulties I have mentioned as preventing a true understanding of Indian social problems are less in degree than the one great difficulty which attends men who belong to a society in one stage of advance, and are transplanted to another in a totally different stage of advance. Men bred up in the atmosphere of free movement, change, struggle, and competition are placed in the midst of innumerable communities to whom all the transactions of mankind are governed by custom. Almost all words to which we

attach definite legal or political ideas in England connote different ideas in India. Such words as landlord, tenant, farm, debtor, creditor, land tax, and others, have to be materially modified before we can take them as representing the facts of Indian life.

Now put all these circumstances together, and you will see how much reason our Indian administrators have to be circumspect before they move. It is hard for them to get sufficient knowledge, even of such facts as are patent to the five senses; and still harder to know, what is quite as important, the feelings of the people towards a new arrangement, and their capacity for using it.

After giving some examples of errors on matters of simple fact resulting from carelessness, he proceeds as follows :—

Even in those cases in which we know the immediate facts, and where the action taken is matter of the clearest propriety, it will happen that the effects produced do not correspond with the anticipations, because other connected facts have not been taken into account.

Nobody would wish that the rite of Suttee, or of burning living widows with their dead husbands, should endure for an instant after the time at which the Government finds itself strong enough to put it down. It was an ancient religious rite, practised among the higher castes of Hindoos, disliked but tolerated by the Mahomedans, and for some time by ourselves. When its abolition was first mooted, it was thought to be dangerous to thwart the religious convictions of our subjects, and perhaps if it had been done quite suddenly and without preparation there would have been danger. The controversy went on for some thirty years, during which time some small restrictions were placed on the practice. Doubtless the discussion had the effect of preparing many minds for the change, for when the abolition was effected by Lord William Bentinck it

was acquiesced in at once and finally in our dominions. But, though we have saved many innocent lives, we have not prevented them from being very unhappy lives. According to Manu's injunctions, a Hindoo widow is to emaciate her body, and to devote herself to pious austerities. I believe that, at least among the upper classes, these injunctions are enforced. She may not marry again, though she may be and often is a mere child at her husband's death; she is shut up, has no occupation, wears penitential garments, eats only once a day, and, in short, undergoes constant mortification. Some rebel against this hard fate and become lawless members of society; most succumb to it and become merely useless ones.

The practice of female infanticide was very common, and is still extant, among the upper classes of India, especially the Rajpoots. It is not in itself a religious rite, but it rests, first, on the necessity of finding a husband for every girl who reaches the age of puberty, which is a strict matter of religion; secondly, on the caste rule, that a girl must not marry below, and if possible should marry above, her caste; and, thirdly, on an inveterate custom which prescribes lavish and often ruinous expense upon such marriages. To avoid these painful necessities people kill their daughters immediately after birth. We have striven for many years, and are still striving, against this practice. Partly from the nature of the act, which it is easy to commit in secret, and partly because it is done in obedience not to a mere religious belief, but to social laws which are in active operation, the struggle is a long one, and the success is not yet complete. But what I am concerned with at this moment is to point out that, though we have saved the lives of many children, they are a superfluity in their society, and we cannot get rid of the social laws which make those lives a burden to a great many of them.

Now, here are two customs which are cruel, demoralizing, hardening to the heart, and necessarily a bar to the progress of civilization. I am not hinting a doubt but that their



abolition was a right act and a beneficial one too. I am only showing that, even in such clear cases as these, the bad custom which we abolish by law is found to be so mixed up with other customs and beliefs which law cannot abolish, that the full measure of benefit expected from the abolition cannot be attained.

Then, having referred to the administration of Lord Cornwallis, of which he always speaks in terms of high praise, he continues :—

Yet this great ruler, apparently misled by a false analogy, did an act the consequences of which would have very much surprised him.

Probably many of you know that the backbone of Indian revenue is the land tax, or land rent. The land tax is such a proportion of the produce as the sovereign power in its discretion thinks fit to take. Lord Cornwallis, in his statesmanlike desire to give definite rights to the subject as against his ruler, resolved to fix the amount of the tax, instead of taking a discretionary amount from time to time. This operation is known as the 'Permanent Settlement.' Now, our Mogul predecessors committed the collection of their revenue to persons called zemindars, landholders or landlords, whose office gradually became hereditary. They collected rent from the cultivator, paid the stipulated amount into the Treasury, and kept the rest for themselves. That was the state of things we found in existence, and we reasoned upon it as though the Indian zemindar and cultivator were analogous to an English landlord and tenant. By the 'Permanent Settlement' Lord Cornwallis turned the zemindar into a landlord in our sense of the term, leaving the cultivator unprotected. I do not speak of the fiscal effects of this settlement, the bad side of which was sufficiently foreseen, and which certainly have their good side as well. But the political and social effects are generally recognized as quite unexpected, and by no means desirable. They are thus described by Sir Henry Maine: 'That, finding the country



one in which the cultivator had a permanent interest in the soil, we turned it into a country of great landlords and great estates, and that the proprietary thus created is characterized by being politically valueless, by its failure to obtain any wholesome influence over the peasantry, and by its oppression of all inferior holders. It is at this moment a matter of great anxiety with Indian statesmen how to modify these unlooked-for secondary results of a reform which was grand in conception, absolutely pure in intention, and highly beneficial as regards improvement of the soil.'

Sir Arthur Hobhouse<sup>1</sup> followed with keen interest the discussion and agitation which followed the introduction of what is generally called the Ilbert Bill. That Bill, introduced in 1883, provided that native judges under certain exceptional conditions in country districts should have jurisdiction over Englishmen, a jurisdiction already granted them in Ceylon and in the Presidency towns. He wrote two articles in the *Contemporary Review* and a letter in the *Pall Mall Gazette* to explain the historical development of the policy, of which this concession was an item, and to show how grossly its scope and effects had been exaggerated. Lord Salisbury, for example, had asked what would his hearers' feelings be if they were in some distant and thinly populated land, far from all English succour, and if life and honour were exposed to the decision of some tribunal, consisting of a coloured man? Sir Arthur Hobhouse pointed out that the tribunal could only imprison for a year, and that there was always an appeal to the High Court. He welcomed the Bill as a development of the practice of employing natives to which every great Indian administrator had looked forward. The tide of feeling,

<sup>1</sup> He was made K.C.S.I. in 1877.

however, ran so strongly against the Bill that it was found necessary to introduce a provision empowering an Englishman tried before a native judge under this Bill to require that half the jury should be European-British subjects.

At the very end of his life Lord Hobhouse took part with Lord Ripon, Mr. Courtney, and others, in organizing the Indian Famine Union. It was the object of this body to persuade the Government to arrange for a detailed inquiry into the conditions of life in some of the Indian villages, in order to find out, if possible, whether the growing frequency of famines was due to economic evils that were amenable to treatment. Lord Hobhouse and his colleagues held that the constant recurrence of famine during the last few years had created new conditions which it was the duty of the Government to explore. It was important, for example, to find out whether the exhaustion of the peasants was connected with the alien condition of land tenure which we had introduced. The famines were not food famines, but money famines due to the economic paralysis of the ryot. One of the last public speeches Lord Hobhouse made was at a meeting in support of this demand. 'Was it,' he asked, 'the fact that the ownership of land was passing away with ever-increasing rapidity from those who cultivated the land to those who did not cultivate it, who did not live near it, and who did not wish to have it for any other purpose than to receive a rent from it? What they wanted to know was this, whether those painful phenomena of famine and pestilence, and of the shifting of land from one to another, were really evidences of increased depression and misery, and if

that was so, then what remedy could be suggested by a careful study of the state of the Indian villages in times when they were more prosperous.'

One of his colleagues has been kind enough to give us some personal reminiscences of Lord Hobhouse's life in India.

'I saw a good deal of Lord Hobhouse and his wife while they were in India, and occasionally stayed in their house or accompanied them on the excursions they made during the brief holidays permissible to a Member of Council. When he arrived in India he was about fifty-three years of age—in what, having regard to the nature of the work before him, might be called the prime of life; but his worn and anxious face, and a certain quaint and old-world manner and mode of expressing himself, were apt to give one the impression of a man more advanced in life. Though he was too good-natured to show it to people in India, he must have missed a good deal of what he had been used to in England. In the year 1872 we find him writing to a nephew as follows :—

This, I presume, will reach you at Oxford, where you will be hard at work with your books again. I am sometimes inclined to envy you. But each age has its own fitting work to do, and I must be content with memories and an occasional dip into favourite passages. You will find the pleasure, and the profit, of this as years roll on. Unfortunately I do not meet here with many whose education has been of a kind to store their minds with classical reading, either ancient or modern; the practical work of life has absorbed them from a very early age. Not chill penury but hard business has repressed their noble rage, and frozen the genial current of their soul. It is a great contrast between them and my late

colleagues, who were much more accomplished scholars than myself. But the men here have other qualities of their own, and very fine ones, developed by the constant pressure of business, and the frequent exercise of personal responsibility. A handful of rulers among countless multitudes of subjects have no holiday time of it, nor can they relax their attention any more than could the driver of your horses as they dash down Countisbury Hill.

‘I well remember his “occasional dip into his favourite passages.” Once, in particular, in the course of an excursion I made with him from Simla into the “interior,” as we used to call it, or into the “exterior” as he always insisted on calling it, I came upon him in the forest in the heat of the day, reading out *Lycidas* in a loud voice and with great gusto, to the admiration of a number of natives who were watching him intently from a little distance, and were doubtless under the impression that he was going through some solemn religious exercise. Though he and Lady Hobhouse formed many friendships in India, which they valued highly and which were to last for their lives, I don’t think they took much to the Simla folk generally. They seemed more at home in Calcutta, where society was organized on a broader basis. But in both places they opened their doors wide, and showed themselves to be the best of good hosts, not only to the Europeans, but also to such members of the Indian community as were prepared to mix in European society. Lady Hobhouse was much interested in female education. I remember on one occasion going with her to take Lord Hobhouse’s place at a distribution of prizes in the Brahmo Edmaj School, and among the pupils was Keshub Chunder Sen’s daughter, the present Maharani

of Kooch Behar, who was then a bright and clever little girl of about twelve. I may add that the desire of the Hobhouses to cultivate the society of Indians of the better class did not spring merely from a sense of duty or from an anxiety to learn something of the country. They really enjoyed meeting these people, and among other things the quaint and high-flown oriental modes of expression had for them, as new arrivals in India, all the charm of novelty. In one of the lectures already referred to, Lord Hobhouse told an anecdote of an interview he had with a Sikh chief, which seems worth quoting.

I was, he says, sojourning in a tent at Delhi when a Sikh chieftain, whom I had seen from a dozen to a score of times, came to pay me a visit. He is a man of grand and stalwart proportions, and he had to squeeze through the low tent door, while his retinue could hardly find even standing room inside. Having seated him in my only arm-chair, I said, 'I have but a small place to receive your Highness in.'—'Not so,' answered he, 'the place you receive me in is your heart, and that is large.'

'As I have said, Lord Hobhouse, when he came to India, looked older than his age; but he was as vigorous in body as in mind. He took to badminton, which was then all the rage, and became such an adept in it that at Calcutta he, with the aid of two members of the Legislative Department staff (one of whom was but a poor player), proved more than a match for any three who could be got together to face them. I have heard that on his return to England he started the game in a small garden attached to one of the official residences in Downing Street, but it was destined to be driven out everywhere by lawn tennis and the revival of



croquet. Lord Hobhouse was, moreover, a good walker. On a tour through the Simla Hill States and the Kangra Valley we had sometimes to make double marches, but he did it for the most part on foot. I generally walked with him part of the way, but I never was much on my own legs. One day, when we reached the boundary of the Suket State, we found the raja's prime minister with his escort waiting to receive us. After stopping for a little to exchange the usual courtesies, we all started together on foot. I had soon to take to my horse, but the prime minister, though he was a very stout man and not much given to walking, felt bound to follow Lord Hobhouse on foot. Needless to say, he could not keep up long, and before we had gone far he had so completely broken down that he had to be supported on either side by two of his attendants, each of them putting an arm round his waist and he putting an arm round the neck of each. Nothing I could say would persuade him to get on his horse, and so I had to ride on and speak to Lord Hobhouse, who of course insisted on all ceremony being dispensed with. When starting with the Hobhouses on that expedition, I rather feared that people of their age attempting a long march in those hills for the first time would find the work a little too rough for them; but they took to it as readily as if they had been at it all their lives, and they were intensely interested in everything they came across: every new tree, every new bird or beast, every new flower, all the ways of the people they met—nothing escaped them; and I confess that they drew my attention to many things that I had had under my very nose for years and years without ever noticing them.



‘At Mundi we were the guests of the raja—the eccentric little man whose death has been recently reported. The food provided for us was, of course, of the sort eaten by Europeans, but Lord Hobhouse having expressed a wish to try the food of the country, the next morning, as we were sitting down to the ordinary English breakfast, the raja appeared, and walking up to him, said in the best English he could muster: “Which I eat, I send you.” Thereupon there entered a string of attendants carrying a second breakfast, consisting of over twenty small dishes of all sorts and of all degrees of greasiness, spiciness, sourness, sweetness, and rancidness. It was not a very tempting repast for those unaccustomed to such food, but Lord Hobhouse, with his usual desire to try everything, declared that he would make his breakfast on it; and accordingly set to work, eating a little of everything; and wound up, to the raja’s great delight, by “protesting” that it was excellent.

‘In about two days’ march from Mundi we came to Palumpore, in the Kangra Valley, where we were the guests of the Commissioner, the late Sir Douglas Forsyth—an able but over-sanguine officer, whose hobby at that time was the opening of a great central Asian trade with its chief entrepôt at Palumpore, where an annual fair was to be held. That scheme, like many others of a similar kind, was doomed to be an utter failure, and there was not much to see at the fair, which was being held when we arrived; but an incident occurred which seems to be worth mentioning, as it affords a striking illustration of how things of that sort are apt to be managed in India, and of the fact that, out there, it is the misfortune not only of

princes, but also of Commissioners and others even of lower degree, to be served by over-zealous servants. As we were walking along the road, on each side of which the sellers and their wares were ranged, a number of traders approached Lord Hobhouse with their hands joined in a prayerful attitude, and calling aloud for help and redress. Their complaint was that, as they were passing through the district with their goods on the way to certain markets in the plains, the native official who had been placed in charge of the fair, and who, after the manner of his kind, felt bound to make it as big a thing as possible, had them seized and conducted to Palumpore, where they were being detained though there were no buyers there; meanwhile they were losing their market, and their goods were spoiling. Needless to say, they were at once released and allowed to proceed on their way, and it is to be hoped that the over-zealous native official received what he deserved.

‘Among the many subjects the Legislative Department had to consider in those days was that of the professional thugs or other thieves who contrive to administer datura to travellers in order the more easily to rob them. One afternoon we were at the house of Sir Edward Bradford, then superintendent-general of the Thuggee Department, and Lord Hobhouse, learning that one of Sir Edward’s orderlies was an “approver” or reformed thug, expressed a wish to hear from him something as to the *modus operandi* in administering datura. We were standing in a small jungly back garden, and after some conversation with the man, Lord Hobhouse at last asked, “And this terrible drug, where is it to be found? Is it easy to

procure?" to which the man replied, "Cherisher of the poor! that is a bush of it just behind you, and see, there are a lot more over in that corner." Some funny fellow present at once charged the poor man with having planted those bushes himself, and suggested that he was evidently relapsing into his evil courses; but, as a matter of fact, the plant is to be found growing wild everywhere, and it was quite clear that there would be no use in making a law against the possession or sale of datura.

'Lady Hobhouse always had a dog, and that dog was always an important personage in the house. When the well-known Porus died, Lord Northbrook presented her with another dog, which was christened "G.G.," and he in turn had to be replaced by a third. Lord Hobhouse, who, like his wife, was much attached to dogs, used to say that he found it painful to think that Nature had so ordained that such faithful and devoted companions of man should be so very short-lived as compared with him, while elephants, for which none of us feel any particular affection, live to such an immense age<sup>1</sup>.'

<sup>1</sup>The love of his dogs, with extreme tenderness to them if sick or injured, was a feature of his character to the last, and is worth noting as illustrating a side of his nature which perhaps only those really intimate with him could fully appreciate. On 'G.G.' he wrote some verses in which the complaint of the unequal length of canine and human life reappears.

A queer fat ball of curly fluff  
 With pink four feet and nose,  
 But deep within that jacket rough  
 A strong affection glows.

Such warmth of love as in its turn  
 Draws love from human hearts,  
 Radiant whene'er he meets his friends  
 And sad whene'er he parts.

And still he seeks himself to endear  
By whine and furtive lick,  
By mute device and boisterous cheer,  
By quaint device and trick.

But soon must come the fatal day  
When his short life shall end.  
Man is a shadow, yet outlives  
Full many a canine friend.

Ah me, that such a tender bond  
Should knit his dog to man,  
Yet burst asunder all too soon  
By life's unequal span.

## CHAPTER IV

### POLITICAL ACTIVITIES AT HOME. 1878-1892

AFTER leaving India, Sir Arthur Hobhouse found himself drawn, for the first time in his life, into the active warfare of party politics, for it was at the election of 1880 that he made his only attempt to enter Parliament. The causes that first engaged his energies on his return were of a less exciting and polemical character. In 1878 he was appointed by the Conservative Government to act as arbitrator in the difficult and tedious question of the enclosures of Epping Forest, and in the same year he joined the Administrative Committee of the Charity Organization Society. But he soon found himself obliged to enter on more controversial tasks, for his mistrust and indignation had been steadily growing with each new development of Lord Beaconsfield's foreign policy, and he had determined to make his protest against the temper and conceptions of national aims which characterized those adventures in as direct, emphatic and public a manner as possible. That dangerous and intoxicating policy of ambition had provoked men who had hitherto kept aloof from the strife of the state, among others Herbert Spencer, Ruskin, and Burne Jones, to take part in public life. Hobhouse felt that the crisis obliged him to become a party man. The development of this strong conviction is best described

in a lecture he delivered in October, 1880, at the opening of the Westminster Young Men's Liberal Association.

If anybody had told me a few years ago, say even three years ago, that I should be asked to deliver an address for the purpose of launching a political party organization or to become the president of one, I should have laughed at him. I should have laughed, because up to that time few men, who had paid any attention to public affairs at all, could have been less engaged with any party than myself. In the days when the Conservative party was led by a wise and patriotic statesman who, loyally accepting the great organic changes just made, avoiding further ones, and avoiding foreign quarrels, applied his great powers of administration to domestic and economical affairs, and led the country swiftly, skilfully, and boldly along the path of commercial reform—in those days I called myself a Conservative. When that party quarrelled with Sir Robert Peel, and virtually placed themselves under the command of a bold and clever rhetorician and romance-writer, who to my apprehension did not show either any capacity for business or any grasp of high political principle, I inclined to follow the Liberal statesmen. Moreover, as I grew older, I saw more and more clearly the wisdom of diffusing political power over wider areas, and I came to feel strongly the necessity of alterations in the laws regulating property, which I found that a Conservative party would not favour. Still, I was quite content to be patient about these things, and I looked with much equanimity on the changes of ministry which took place from time to time. In short, though I was much interested in many political questions, the struggles of party politicians concerned me but little. The nation was making steady progress in the direction of greater freedom for a greater number; and though the progress was slow, I am one of those who think that slowness in political and social changes is a necessary condition of their durability.



So it was until the Conservative victory of 1874. Then, for the first time since the days of the great Sir Robert Peel, a party calling itself Conservative found itself supported by a substantial majority of the House of Commons. Most of us thought that nothing worse had happened than the interposition for a longer or shorter term of years of a check to those gradual adaptations of old arrangements to new circumstances which we call reforms. Nay, many said that the preponderance of a Conservative party did not necessarily mean even a cessation of reforms, and that just as the Conservative party under Peel effected most salutary and potent reforms in the departments of commerce and finance, so the same party under Disraeli might do as well in other departments, notably in that of law. So we received the Conservative majority in a spirit of not unfriendly hope. But gradually we learn that the Conservative party, while retaining its name, has changed its spirit; that with new leaders it has acquired a new character, and is now nothing but the old Tory or aristocratic party, with strong reactionary tendencies. For any useful reforms it proves to be impotent. Few are attempted. If any one of importance is attempted, it is not pressed; it is found to encroach on some privilege or some sentiment too dear to its possessors to be parted with, and it is dropped: just as the Lord Chancellor's proposal to take away judicial power from the House of Lords was snuffed out by a caucus meeting of Tory Peers. On the other hand, the Government is found to be anything but Conservative as regards the broad lines of national policy. It is true that reactionary legislation, such as was the attempt to restore to scholastic endowments that sectarian character which the preceding Parliament had taken away, can be and is defeated in the House of Commons. But as regards our dealing with other peoples, the Ministers, having got into the saddle, were able to show their tendencies without substantial check.

It would lead me too far away from the subject of this address if I were to attempt here to recount what I consider

the misconduct of our affairs, in at least three quarters of the globe, which began in the year 1875 and went on during the remainder of Lord Beaconsfield's tenure of power. The bill of indictment has been drawn by far abler hands than mine, nor is it now my object to draw it. My object is to point the moral of it, and to remind you of it only so far as is necessary for that purpose. We have been made to appear before the world as indifferent to humanity, indifferent to freedom, pursuing only our own material interests, ready for that object to support an odious tyranny, greedy of other people's territory, contemptuous of the common rights of mankind, oppressors of weak nations. And all this was dignified with the name of 'Imperial Policy,' or some other equally magniloquent phrase. Well, but could no check be administered to such conduct? No, none; because, first, the Ministry took care to commit the nation they represented before consulting the Houses of Parliament, and even went the length of deceiving the Houses when inconvenient questions were asked; and, secondly, when these affairs did come before Parliament, they came only in the shape of a question whether or no Ministers should be blamed for what they had done; and then it was found that the party which had brought them into office invariably supported them through thick and thin.

It was this last phenomenon which convinced me that I could not do my duty without becoming a party man. As early as the month of June, 1877, I knew that the Government were deceiving the country about their doings in Afghanistan, though my lips were sealed against public speaking until the official papers should be published. But I was weak enough to think that when full light was thrown upon the matter, their own party would be found to contain enough of right-minded men to check them by showing displeasure both at wanton aggressions and at violations of the truth. But when I learned that the great Conservative party did not contain such men; when it was clear that

they were going to place party considerations first and others nowhere; when they proved to demonstration, as they did in the debates of December, 1878, that among this numerous and powerful party there was no independent thought at all; that they were bent simply on following their leader, and on retaining power in his hands at the expense, if need be, of the national character; when all these things became clear, then it became equally clear that the duty of men who had hitherto stood aloof from parties, or had adhered but loosely to them, was to fight with might and main for a party with more intelligence, with less dependence on their leaders, with higher principles and wiser aims than belonged to the party in power. The powerful combination which boasted of containing the mass of nobles, of courtiers, of accumulated wealth, of the learned professions, and of ancient corporations; which had courted influential interests, and gained over a conspicuous portion of the London newspaper press; which was confident of having, by its crafty strategy, set up so many bulwarks that it could not be overthrown, had forgotten one thing; and that is, that political power depends mainly upon mental and spiritual forces; and that such forces were certain to be found working against those who denied their existence in politics, and who worshipped the inferior powers of material interests, of brute force, and of mechanical discipline.

His views eleven years later, on the party system, are given in a letter to a friend who had changed from one party to the other.

15 Bruton St., W., *Nov. 24, 1891.*

Many thanks for your full letter. I will say no more about the electoral struggles. I see that matters have gone too far for anything but a fight at the poll. You have in the stress of combat, even if you disguise it from yourself for a while, changed your side in public affairs. People don't receive fire from their old allies and return it, without

mutual exasperation and permanent hostility. And as for an intermediate position, if you maintain that, you will do what I have seen many men and groups of men attempt, but have never seen any accomplish. Of course I mean as active fighting politicians. I am not speaking of that very important class, the private persons who usually hold the balance at the polls between the combatants. They may be quite independent of party: and better that they should be. The party you join, or are about to join, is only less important (*me iudice*) to the life of a nation than the party of movement. Its greater repose attracts me: I like and admire a great many of its members: I often think it right on particular issues: and I always wish to see it strong and ably manned: because, however irritating delay may be to the convinced, it is better for the nation at large that great changes should not take place with a rush, but that each shall be delayed till thoroughly sifted, and till a very large number of persons understand it. That is the condition of steady progress: and so it has proved in the long struggles over monarchy, oligarchy, privileges, franchise, free trade, free thought, education, and so I believe it will prove in this matter of our government of Ireland, which was arrested, quite justifiably, in 1886. If you take an honourable part, as you well may, in the guidance of this great and necessary party, I shall be well content: though my experience led me, almost in middle life, to attach myself to the other camp, as heading generally in the right direction.

I agree with you in thinking that you are not likely to see much abatement of private dissensions on account of public affairs: though there is not now anything approaching to the irritation which existed in my younger days; in the thirties and the forties. '*Idem sentire de republica*' has always been a strong bond of union: and *per contra*. But I have managed to walk through life on terms of close friendship with many political opponents: and so doubtless will you.

Hobhouse's solitary attempt to enter the House of Commons was made in a famous constituency and at a famous election. Westminster has an unchallenged supremacy in its roll of Parliamentary representatives. The election of Charles James Fox in 1782 was the chief event of the great uprising against the corrupt power of the court, and George III spent £8,000 in the unavailing effort to avert it. Fox sat for Westminster till his death in 1806, and his successors included, besides Sheridan, Burdett, Romilly, and Mill, a representative of Hobhouse's name and blood in Sir John Cam Hobhouse, the friend of Byron. In a letter written to Mr. Carr explaining his views in November, 1879, Sir Arthur Hobhouse recalled the days when his relative had represented Westminster: 'Sir John Cam Hobhouse and the Westminster electors stood by one another through very troublous times.' Sir John Cam Hobhouse sat for Westminster for thirteen years, during part of which time he was Secretary at War and Chief Secretary for Ireland in the Reform Government. Sir Arthur Hobhouse's colleague in the attempt to recover Westminster for the causes that had made it famous was the most distinguished of the disciples of its distinguished member, John Stuart Mill. Mr. John Morley had stood once for Parliament fifteen years before as a candidate for his native city of Blackburn. When he came before the Westminster electors in 1880 his place in the front rank as a man of letters and as a political writer had already been won. His studies of the great forces that prepared France for revolution had been published, and as editor of the *Fortnightly Review* he had begun the career, as an eloquent and



fearless critic of political conduct, which he was to continue in the chair of the *Pall Mall Gazette*. It must have seemed to the Liberals at Westminster that their constituency was returning to the high place it had held in the history of the country, when two candidates came before it, one of whom was among the first of living writers of the English language, and the other, besides his administrative achievements, had had an original and creative share in one of the most important of our domestic changes. The Conservative members were Sir Charles Russell, who had won the Victoria Cross at the battle of Inkermann, and Mr. W.H. Smith, who was already a Cabinet Minister, having become First Lord of the Admiralty in Mr. Disraeli's Government in 1877, on the death of Ward Hunt.

There was never any doubt about the governing issues of the election at Westminster. The two Liberal candidates had both been brought into political life by their poignant sense of the injustice done, the danger incurred, and the weaknesses created by a foreign policy based on violence and aggression. At all their meetings the chief topics were the Afghan war, the Zulu war, the Cyprus Convention, the constant and restless pursuit of ambitious and unscrupulous designs. Dr. Guinness Rogers, who took the chair at one of their meetings, well described them as fighting not so much against Toryism as against Imperialism. Among their most active supporters were Mr. Robert Lowe, Mr. James Beal, Lord Frederick Cavendish, Lord Richard Grosvenor, and Sir Charles Dilke.

The Liberals, though rich enough in enthusiasm and devotion, suffered seriously from the want of funds,



and when the expenses of the election were returned it was found that the Conservative candidates had spent £6,146, and the Liberals £3,588. This inequality no doubt affected the result. Mr. W. H. Smith was returned at the head of the poll with 9,093 votes; Sir Charles Russell received 8,930 votes; Mr. Morley, 6,564; and Sir Arthur Hobhouse, 6,443. In 1874 Mr. Smith had received 9,371 votes and Sir Charles Russell 8,681, so that there had been a slight decrease in the Conservative poll. But the Liberal candidates, Sir Thomas Fowell Buxton and Sir W. J. Codrington, had received 3,749 and 3,435 votes respectively, so that the Liberal poll had increased by nearly 3,000 votes.

Neither of the defeated candidates allowed his own failure to damp his enjoyment of the great triumphs of Liberalism in the country. Hobhouse's own views are given in letters to Sir T. H. Farrer and to his wife.

15 Bruton St., W., *April 5, 1880.*

Many thanks to you and E. for sympathy. As regards myself, I am better pleased to be out of Parliament than in it, and I should not have felt at ease, if, placed as I was, I had declined to fight the battle. On public grounds, my only motive, the general success gives me ample satisfaction. Even looking at Westminster alone, we ought to be satisfied. There is now a Liberal party, where there was only a congeries of atoms, more or less mutually repellent; there are no reproaches or even regrets, such as beaten parties commonly resort to; on the contrary, from the howling Republicans up to the stately Whigs, all appear to be looking forward to prepare for the next combat.

As for the general result, the heavy cloud of gloom and fear for the country is lifted. Imperial policy has really been the one issue, and it has received a buffet from which

it will not soon recover; though we ought to lose no time and spare no effort in deepening and fixing the impressions now made on people's minds. What is peculiarly gratifying to me is that the abominable iniquity of the Afghan war, against which I strove two years officially, and three more in trying to diffuse the truth, has proved far the most powerful instrument in battering down the edifice of fraud, injustice, and selfishness; and all the hard words of frightened officials, all the abuse of Dizzy's janissaries of the Press, all the sneers of upper class Sadducees, are amply repaid. And their idol of gold, with his feet of mud, is broken to pieces. That is a thing worth fighting for.

For the future, I shall be glad to have regular official employment, if it comes to me. . . . Anyhow, I shall try to make myself useful in some way, while it is yet day.

TO LADY HOBHOUSE.

15 Bruton St., W., *April* 10, 1880.

The tenth of April never comes round but I think of the great Chartist demonstration, thirty-two years ago, when I served in Trafalgar Square, leaving you at Hadspen. We are in the same relative localities now, and enjoying also a great and memorable political triumph, though the forces now in opposition might be curiously contrasted with the opponents of 1848. The amount of success becomes almost alarming: but still I am very glad to win counties. I had thought it impossible, except to a very slight extent; and it not only swells numbers, but prevents the dividing lines between the two parties from being so very sharp.

It was very true, as Sir Arthur Hobhouse says in the first letter, that his campaign was not an isolated and solitary protest on his part against the Government's conduct of affairs in Afghanistan. Early in the year he had been compelled to discharge a painful

duty by sending a memorial to the Prime Minister asking for an inquiry into acts which the military correspondents had described in their accounts of the Afghan campaign.

This campaign was the invasion of Afghanistan after the murder of the English Envoy and his suite at Cabul. It had been one of the stipulations of the Peace of Gandamak, made with the Ameer Yakoob Khan after the invasion of 1879, that an English representative should be allowed to reside at Cabul. In September, 1879, there was a popular uprising, the Envoy and his suite were massacred, and the British troops again invaded the country to take vengeance for the murders and to restore the authority of Yakoob Khan. Yakoob Khan, however, was soon found to have been an accomplice in the murders and to have encouraged the resistance to the British force, and was sent as a prisoner to India.

The memorial is too important to be summarized; it ran as follows :—

MY LORD,—We have heard with surprise and grief the account of certain acts committed by the British authorities in Afghanistan, which we believe to be contrary to the practices of civilized warfare, and certain to be followed by disaster and dishonour. In proclaiming that all who opposed the British forces would be treated as rebels, that those who had instigated the resistance would be punished without mercy, and in offering rewards for any person who had fought against his troops, the general in command took a course which cannot be justified either by public law or by the customs of civilized armies in the field. A national resistance to invasion cannot with justice be converted into mutiny and insurrection by a proclamation of the invaders; much more so when the invaders have

themselves destroyed such government and organization as previously existed in the country. We make no reference to anything that has been done during actual operations in the field, or to the execution of those who were fairly convicted of murder; but we desire to point out how grave a thing it is that soldiers on a campaign should deliberately put their prisoners to death on political grounds, and on a technical charge of rebellion. It appears that the general in command, having obtained possession of Cabul and the territory round it, instituted a systematic search, not only for those who had been accomplices in the attack on the British Envoy, but for those who had taken an active part in the defence of their country. The accounts published under a strict military censorship inform us that in a series of public executions a considerable number of Afghans have been hung by the orders of British officers, with no military object, but as a measure of political vengeance. Against some of these, we are told, there was evidence that they had a share in the attack on the Envoy; others, and among them a chief priest, were put to death on the general ground of having fought in the enemy's ranks, or having been prominent in the defence. These executions took place at a time when there was no actual resistance in arms; those executed were prisoners, either previously taken in fight or arrested in their homes. In some cases, at least, men were hung on the spot, on the sole evidence that their names were found on the lists of particular regiments. We are told that after the bloody combats of December, the general, after retaking Cabul, returned to the system of hanging prisoners on political, as distinct from military grounds. A pardon has now been proclaimed, but this pardon rests on the principle that those who defend their country from invasion are committing a crime. And it reserves the leaders of that defence for special punishment. Such proceedings are in violation of the practices of civilized warfare. They treat the invasion of an independent nation as if it were the

sanguinary repression of a domestic insurrection. They have inflamed the hostility of the Afghan people, and they must make it permanent. We ask Her Majesty's Government to institute an inquiry into acts which affect the honour of the nation, of the army, and of the sovereign<sup>1</sup>.

Accounts had come to England of executions that had taken place in accordance with these proclamations, and they had been the subject of comment by Mr. Frederic Harrison in an article in the *Fortnightly Review*, as well as on public platforms. When Parliament met on February 5, Lord Granville questioned Lord Beaconsfield about these charges, and Lord Beaconsfield replied that he had asked the authors of the memorial for the documents on which they

<sup>1</sup> The memorial was signed by the Duke of Westminster, the Bishops of Oxford and Exeter (Mackarness and Temple), Arthur Hobhouse, K.C.S.I., T. Fowell Buxton, Bart., Charles E. Trevelyan, Bart., F. A. R. Russell, S. Morley, M.P., W. H. Fremantle, Rector of St. Mary's, Bryanston Square; C. J. Wingfield, K.C.S.I., Charles P. Hobhouse, Bart., late a Judge of the High Court of Calcutta, Joseph Chamberlain, M.P., E. H. Plumptre, Vicar of Pluckley; Frederic Harrison, John F. Clark, Bart., J. A. Froude, E. S. Beesly, George Howard, M.P., Henry Allen, D.D., John Morley, W. A. Hunter, Professor of Jurisprudence, University College, London; Colin Mackenzie, Lieut.-Gen.; Humphry Sandwith, C.B., John P. Thomasson, L. H. Courtney, M.P., Ashton W. Dilke, Frederick Pennington, M.P., Stopford A. Brooke, Thomas Hughes, Evan Bell, Major; Henry Crompton, William Morris, James Bryce, D.C.L., Samuel Gurney, Arthur Hallam Elton, Bart., Justin McCarthy, M.P., John Dacosta, R. D. Osborn, Lieut.-Col.; E. Burne-Jones, J. Llewelyn Davies, Rector of Christ Church, Marylebone; J. Baldwin Brown, H. Richard, M.P., Edward North Buxton, Wilfrid Lawson, M.P., Bart., F. W. Chesson, John Swinburne, Bart., James Heywood, John Westlake, Q.C., P. Benson Maxwell, Knt., R. Knight, C. H. Hopwood, M.P., Henry F. Pelham, Tutor of Exeter College, Oxford, Senior Proctor; Malcolm MacColl, Rector of St. George's, Botolph Lane; Walter H. James, M.P., A. V. Dicey, G. W. Kitchin, M.A., late Senior Student of Christ Church, Oxford; Charles L. Shadwell, M.A., Fellow of Oriel College, Oxford; Arthur Arnold, John Webster, LL.D. Aberdeen; H. F. Tozer, M.A., Tutor of Exeter College, Oxford; Mark Pattison, Rector of Lincoln College, Oxford; J. Passmore Edwards, T. H. Green, Whyte's Professor of Moral Philosophy, Oxford; L. R. Phelps, M.A., Fellow of Oriel College, Oxford; R. Bosworth Smith, Edward E. Bowen, Arthur G. Watson, D.C.L.



founded their allegations, and had not been supplied with them, and that persons who could believe the charges were very much to blame. The Duke of Argyll, who had refused to sign the memorial himself, replied that it was absurd to say that these charges had no foundation except newspaper paragraphs: they were founded on General Roberts's own proclamation. Did General Roberts, or did he not, shoot men who were guilty of nothing except the defence of their country? Next day Sir Arthur Hobhouse replied in a letter in the *Daily News* to Lord Beaconsfield's statements. The request for the evidence on which the allegations were based only reached him on the evening of February 4, and on the following day he sent to Lord Beaconsfield's secretary a sufficient, though by no means exhaustive list of such accounts, eight of them taken from the *Daily News*, one from *The Times*, and one from the *Times of India*. The answer therefore was on its way to Lord Beaconsfield at the very time he was speaking. 'It is surely too sharp to ask a man for evidence on Wednesday evening, and to proclaim him a defaulter on Thursday afternoon.'

On February 11, Sir Arthur Hobhouse wrote a letter to *The Times*, explaining the position which he and his fellow memorialists had taken up.

SIR,—The 'Proprietor' of the *Times of India* is in too great a hurry to defend himself. He seems to be sensitive about something which appeared in his paper and was afterwards contradicted, but which he thinks was used for the purpose of the memorial to Lord Beaconsfield.

In fact, however, it was not used, nor have I myself ever seen it. The passage in the *Times of India* which was used



was, like the other reports relied on, of a much more matter-of-fact kind, being only a fuller report appearing in the *Times of India* of the 17th of November, 1879, of a proclamation which was also reported in the *Daily News* of the 15th of November. The 'Proprietor's' letter, therefore, has absolutely nothing to do with the discussion in which he has taken part. It is really no use attempting to argue that, in believing people to have been executed merely for attacking us, and merely as rebels, we had not good ground to rest on. We had much the same grounds as for believing that there was any invasion of Afghanistan at all—viz., a number of concurrent reports coming through official or officially-controlled channels, all tending to the same point, and remaining for weeks uncontradicted.

So far as I know, nobody did doubt that there was substantial truth in the reports, though the memorialists did not affirm their accuracy, but only referred to the reports themselves, and asked only for inquiry. As long as there was no contradiction, the party who cannot bear to hear that there is anything wrong about our Afghan policy defended the executions on principle, and as being necessary incidents of war. Now they deny that there were such executions, but condemn the reported ones so strongly as to say that it was shameful to believe such things, even so far as to ask for inquiry.

As I have said before, nobody will be more glad than myself, both on private grounds, and still more on public, to find that we have been deceived; and it is a comfort now to be assured that, for once in this vexed matter, the contending parties stand on the same ethical and political basis.

General Roberts's answer was read to the House on February 13. Part of it dealt with charges about the treatment of the wounded, as to which the memorial had said nothing; the part that referred to the memorial is given in full.

As to the Proclamation published relative to the treat-

ment of soldiers and others concerned in the attack on the Embassy, and of those who had apparently shown themselves to be rebels against the Ameer by fighting against us, I would mention that at the time the Proclamation was issued Yakoob Khan was outwardly our friend, and repeatedly spoke to me of the people who had fought against us at Char-Asiab as rebels to his rule; and on that account they were referred to in the terms of the Proclamation. As for men being hanged for the simple fact of their having fought against us, such was not the case. Rewards were certainly offered for their capture; but this was done with a view of arresting those who, directly or indirectly, had taken part in the massacre of the several members of the British Embassy. All convicted of such a crime would, I believe, have been sentenced to death in any country, whether civil or martial law had been in force. The Kotwal (chief magistrate of the city) was found guilty of having incited the troops to the massacre, of having taken an active part in dishonouring the dead bodies, and of having subsequently instigated the troops and people of Cabul to resist our advance. On these accounts he was hanged. As to prisoners taken in fight being shot, such is totally devoid of truth, further than in one or two instances summary punishment has been inflicted on individuals who have been found mutilating our wounded soldiers; indeed, all the wounded that have fallen into the enemy's hands at different times have been treated in the most cruel manner and horribly mutilated. With regard to the men who were not implicated in the attack on the Embassy, some short time after Yakoob Khan had been made a prisoner an amnesty was proclaimed, and the people of every district visited by our troops have invariably been informed that those soldiers have nothing to fear from us; but, on the other hand, if they came in and gave up their rifles or guns they would receive the amount authorized for the same. This was fully understood, and a considerable number of arms have from time to time been brought in.

Recently, quite irrespective of any action taken by us, the Mollahs have been preaching a 'jehad' or religious war, and have by these means got together by coercion, practical as well as religious, a gigantic collection of people. On reaching Cabul this mass was joined by all the riffraff of the city and neighbouring villages; but the Kazilboshis, merchants, and respectable inhabitants, so far from throwing in their lot with our opponents, held aloof, and from time to time gave us valuable information. The greater portion also of the Sirdars of Cabul remained during the disturbances in our camp. As soon as I was aware that the enemy had been completely dispersed, I published a general amnesty, feeling that the people generally were not to blame for what had occurred, and the quickest way of restoring order was to invite the people to Cabul and to let them see that they could trust implicitly to our forbearance and generosity. At the same time the Civil Dispensary was re-established, and notice was sent through the city and to all the neighbouring villages, inviting the wounded to hospital and assuring them that they had nothing to fear. Many wounded have been brought in, and are being taken every care of<sup>1</sup>.—Hansard, Third Series, vol. ccl, pp. 579-82.

<sup>1</sup> When the Official Return of the cases tried before the Military Commission at Cabul was issued (c 2523), it appeared that the simple offence of bearing arms against us was not the sole charge in any case in which sentence of death was inflicted, though in many cases the charges of 'taking part in the attack on the Residency, and being present at the action of Charasiab,' were put together.

The abstract statement made by the Government of India is as follows :—

Charges.	Number executed.	Number released.
Dishonouring the bodies of the officers of the Embassy	4	—
Possessing property belonging to the Embassy . . .	4	4
Being armed within 5 miles of the camp* . . .	6	15
Attacking escorts with a view to releasing prisoners .	4	—
Murdering camp followers; participation in the attack on the Residency; inciting people to rise; carrying arms; treacherously firing on and killing wounded soldiers	69	57
	87	76

\* This was forbidden by the Proclamation instituting Martial Law.

The provisions of the Proclamations that were referred to in the memorial were as follows :—

In my Proclamation<sup>1</sup> dated 3rd October, I informed the people of Kabul that a British army was advancing to take possession of the city, and I warned them against offering any resistance to the entry of the troops and the authority of His Highness the Amir. That warning has been disregarded. The force under my command has now reached Kabul and occupied the Bala Hissar, but its advance has been pertinaciously opposed, and the inhabitants of the city have taken a conspicuous part in the opposition offered. They have therefore become rebels against His Highness the Amir, and have added to the guilt already incurred by them in abetting the murder of the British Envoy and his companions—a treacherous and cowardly crime which has brought indelible disgrace upon the Afghan people. It would be a just and fitting reward for such misdeeds if the city of Kabul were now totally destroyed, and its very name blotted out ; but the great British Government ever desires to temper justice with mercy, and I now announce to the inhabitants of Kabul that the full retribution for their offence will not be exacted, and that the city will be spared.

Nevertheless, it is necessary that they should not escape all penalty, and, further, that the punishment inflicted should be such as will be felt and remembered. Therefore, such portions of the city buildings as now interfere with the proper military occupation of the Bala Hissar, and the safety and comfort of the British troops to be quartered in it, will be at once levelled with the ground ; and, further, a heavy fine, the amount of which will be notified hereafter, will be imposed upon the inhabitants of Kabul, to be paid according to their several capacities.

Finally, I notify that I will give a reward of Rs. 50 for

<sup>1</sup> For the Proclamation in full see Roberts, *Forty-one Years in India*, vol. ii, p. 287.

the surrender of any person, whether soldier or civilian, concerned in the attack on the British Embassy, or for such information as may lead directly to his capture. A similar sum will be given in the case of any person who may have fought against the British troops since the 3rd September (Shawal) last, and therefore become a rebel against His Highness the Amir. If any such person so surrendered or captured be a captain or subaltern officer of the Afghan army, the reward will be increased to Rs. 75, and if a field officer to Rs. 120.

Kabul, 12th November, 1879.

To all whom it may concern<sup>1</sup>. On the 12th October a Proclamation was issued in which I offered a reward for the surrender of any person who had fought against the British troops since the 3rd September, and had thereby become a rebel against the Amir Yakub Khan. I have now received information which tends to show that some, at least, of those who shared in the opposition encountered by the British troops during their advance on Kabul, were led to do so by the belief that the Amir was a prisoner in my camp, and had called upon the soldiery and people of Kabul to rise on his behalf. Such persons, although enemies to the British Government, were not rebels against their own Sovereign, and the great British Government does not seek for vengeance against enemies who no longer resist. It may be that few only of those who took up arms were thus led away by the statements of evil-minded men, but rather than punish the innocent with the guilty, I am willing to believe that all were alike deceived. On behalf of the British Government, therefore, I proclaim a free and complete amnesty to all persons who have fought against the British troops since the 3rd September, provided that they now give up any arms in their possession and return to their homes. The offer of a reward for the surrender of such persons is now withdrawn, and they will not for the future be molested in any way on account of

<sup>1</sup> See Roberts, *Forty-one Years in India*, vol. ii, p. 255, note.



their opposition to the British advance; but it must be clearly understood that the benefits of this amnesty do not extend to any one, whether soldier or civilian, who was concerned directly or indirectly in the attack upon the Residency, or who may hereafter be found in possession of any property belonging to members of the Embassy. To such persons no mercy will be shown. Further, I hold out no promise of pardon to those who, well knowing the Amir's position in the British camp, instigated the troops and people of Kabul to take up arms against the British troops. They have been guilty of wilful rebellion against the Amir's authority, and they will be considered and treated as rebels wherever found.

Sir Arthur Hobhouse's defeat at Westminster had, as we have seen, caused him no personal disappointment, for at no time in his life did he think himself particularly suited for Parliamentary work. But it left him in some doubt about the direction in which his energies could be applied most usefully. He was now sixty, and it would have seemed the natural course at his time of life to have resumed the kind of work in which he had been engaged, rather than seek some new and strange employment. The circumstances of his career, however, presented certain embarrassments from this point of view. The prominent part he had taken in Indian controversies made it difficult for the Government to give him an appointment in the India Office. He had all the qualifications that are wanted for the Bench, except that he had left the Bar for the Charity Commission fifteen years earlier.

Fortunately a means occurred to Mr. Gladstone by which his endowments of mind and experience of Indian affairs could be employed in the public service.



*Photo. by Fradette & Young.*

Very affectionately yours  
Arthur H. Thomas



In 1881 he was appointed a member of the Judicial Committee of the Privy Council under the Act of 1833 (commonly known as Lord Brougham's Act), which enables the sovereign by sign-manual to appoint two persons, other than the judicial officers mentioned in that Act, to be members of the committee. His work on the committee is discussed elsewhere. By a singular circumstance Hobhouse found himself serving his country for the next twenty years in a most important and distinguished office without pay or pension. With the exception of Lord Kingsdown, all Hobhouse's predecessors and colleagues on the committee were, unlike him, either judicial officials or ex-judges in receipt of pensions. His appointment gave great pleasure to his old friend, Jowett, who wrote to congratulate him.

Balliol College, *February 10, 1881.*

I think that there could not be a better position for the last ten or fifteen years of active life—far better than politics, which give one strange bedfellows and require too great a sacrifice of individual ideas to party: I could not wish to see you better placed. It seems to me the natural crown and completion of your life, that after many varied experiences you should return to the law at last.

And now you must grow young again, and go back to youthful studies. Such a post should put new vigour into a man. I used to think you too prone to speak of the poor remains of life, as if the last ten or fifteen years were not the prime of it. It is true that the memory fails a little for the permanent acquisition of new knowledge. But old recollections soon come back, and there is greater power of getting up a subject quickly than at any former time of life.

Hobhouse's work on the Judicial Committee did not engross all his time or energy, and he was anxious to

supplement it by some public work that was not purely honorary. He even applied for a County Court Judgeship, and when Canon Robinson's death in 1882 created a vacancy on the Charity Commission, he wrote to Mr. Gladstone expressing a wish to return to the field of his earliest public work. After his application had been sent in, he received a letter from Mr. Douglas Richmond, who, of course, did not know that he was a candidate, asking for his support for his own candidature. On receiving this letter Hobhouse wrote to Mr. Gladstone, withdrawing his claims in favour of Mr. Richmond. 'I have just heard from Mr. Douglas Richmond that he is a candidate for the vacant place in the Charity Commission. I should not venture to say a word about his candidature, were it not that you have been good enough to say that my own fitness for the post would be duly considered. I have so very high an opinion of Mr. Richmond, and think that he has rendered such good service to his department of public affairs, that if by any possibility you should be hesitating between him and myself, I should think it right to give the preference to him.' It was believed in some quarters that the Government might feel obliged to appoint a Nonconformist Commissioner, and Hobhouse received a letter from Mr. Henry Richard, the eminent Nonconformist leader, in which he said: 'I am free to say this much, that if the office of Commissioner is not given to a Nonconformist, I believe there is no man living who would be more generally acceptable to the Nonconformists than yourself.'

Mr. Douglas Richmond writes with regard to this incident as follows:—

One incident in his life I should like to record, because



it is evidence at once of the extreme generosity of his nature, and of his unselfish desire to serve his country in any capacity in which he might see a sphere of usefulness. When in the year 1883 a vacancy occurred at the Charity Commission, and I was a candidate for appointment, I took occasion to inform Lord Hobhouse of the fact, and on my appointment the first note of congratulation I received was from him. I afterwards learnt that he had himself applied to Mr. Gladstone for the place, but on hearing of my candidature had declined to press his infinitely greater claims.

In April, 1883, Mr. Douglas Richmond was appointed to the post, and Mr. Gladstone informed Sir Arthur Hobhouse of the appointment in the following letter:—

10 Downing Street, Whitehall, *April 17, 1883.*

DEAR SIR A. HOBHOUSE,—The idea of appointing a Non-conformist to the vacant Charity Commissionership has been for the present occasion abandoned. This being so, I regard the claims of yourself and Mr. Richmond as having been under all the circumstances entitled to a preference. Further, I have to bear in mind that you have generously waived your own pretensions in Mr. Richmond's favour, on public grounds.

I propose to recommend him for the appointment, but I must not omit upon doing so to express my strong sense of the generous and self-sacrificing spirit in which you have acted on this occasion.

I remain, very faithfully yours,

W. E. GLADSTONE.

During these years Sir Arthur Hobhouse took little part in public controversies, though he sent a strong letter to the *Pall Mall Gazette* in October, 1880, urging on the Government the duty and policy of retiring from Candahar. 'We look to them,' he wrote, 'to make up

their own minds. In all the miserable history of our first Afghan war, there is one bright political spot, and that is the resolute courage with which the great Conservative leaders, Wellington and Peel, insisted on withdrawing from the country we had overrun. It was humiliating for the time, but it was just and prudent, and we did it. The success was complete. By it we lost no strength, no "prestige" in India, and so far as the Afghans were concerned, we gained peace and security very valuable to us at a critical moment, and lasting from the year 1842 until wantonly disturbed by us in the year 1876. We look to the present Government to act with equal courage and wisdom, and if they do we may confidently predict for them an equal success.' Six months later this policy was carried out with the success which Hobhouse had anticipated for it.

He also tried to organize a league against aggression, an attempt described in the following note found amongst his writings:—

After that (the election of 1880), sanguine people proclaimed that the Jingo—the party of aggression and 'Empire'—were destroyed. I was one who thought them still the most powerful force in the country, as well as the most dangerous. Herbert Spencer thought likewise. We got together a meeting at my house, with the view of setting up an Anti-aggression League. But we met with no support, the bulk of people thinking that the danger of ousting morality from public policy was past.

The developments of the Government's Egyptian policy caused him a good deal of distress and concern, as is shown by a letter he wrote to a friend in August, 1882.

Westminster Hotel, West Malvern, *August 4, 1882.*

I will try to get up the energy necessary for understanding the Egyptian question, but at present I do not see my way clear enough for any useful utterance except on two points, one being the Dual Control and the other our use of Indian troops and money. On the latter head the tergiversation of the Government appears to me unpardonable, and I shall be surprised indeed if its glaring character does not open people's eyes, in spite of their wish to support Gladstone, or to keep out Salisbury. But on the other parts of this complicated question I am not sure whether further study will bring me to any decided conclusion: still less am I confident of expressing my thoughts in a persuasive way. It may be as you say, that to throw light on a political problem is worth more than much official work. Still, a man must do what he can. That I can work a judicial or semi-legal office easily, and indeed with pleasure to myself, I know. That I can do it well I believe; whereas the composition of papers and speeches on political and social questions is very great labour to me, and, after all, I have no evidence that they produce any effect. *Quoad* reviewers and such-like evidences of public attention, my words always fall as flat as flounders.

In 1882 Hobhouse gave his judgement in the Epping Forest Case. In the same year he became a member of the London School Board.

In the Autumn of 1883, he accepted an invitation from Mr. Villard, the President of the North Pacific Railroad, to visit the United States, and take part in the opening ceremony of the line which had just been completed across the Atlantic. Among his fellow guests were his friends, Lord Hannen, Lord Bowen, Lord Carrington, Mr. Bryce, Mr. (now Lord) Davey, Mr. Francis Buxton, and Mr. Albert Grey (now Earl Grey).

He left England in the *Scythia* on August 11, and returned in the *Bothnia* on October 26. This journey being his first experience of America was of great interest to him, and he recounted his adventures to his wife in a series of letters. Some of the peculiarities of the Americans are noted in the following extracts :—

I verily believe that the Americans are so fond of bigness that they like big prices. One man envied me the sight of the North Pacific Railway, because it is the *longest* in the world. Another responded to my praise of the Central Park by saying, 'Yes, it is the third largest Park in the world,' the others being, according to him, at Philadelphia and Dublin; he evidently does not know of Yellowstone. And so with their rivers and their territories, they are always dwelling on their size. No doubt size is a stimulant to the imagination, and one element of grandeur (a doubtful one, perhaps, in the case of a long railway), but people here seem to treat it as if it constituted grandeur. . . .

The States certainly beat the old Country in bigness of advertisements. One I saw at Coney Island made a passing railway train look quite small; there are some sizeable ones here greeting us on our entry, among others 'Electric Clothiers'; I did not think of being clothed by electricity, but perhaps it will be my fate.

They are also very choice in the headings of paragraphs in newspapers. To invent startling or attractive ones is a business of itself, and some of them are very clever. Here is one: 'He might have been Moses.' Then comes a story of a child found at the river's bank, deserted or strayed. Another: 'He might hire a poet,' introductory to a speech by Coleridge, declaring that something or other he had just seen was so grand, that he could not find words to express his feelings about it. . . .

The lack, or apparent lack, of enjoyment of the flowers that grow on the wayside of life, seems to one a serious defect in the life of ordinary Americans. Enterprise, dollars,

business of all kinds ;—as long as you are on such subjects they are most instructive and intelligent companions, but ask them about a bird, a plant (not being a tree used for lumber), climate, geology, scenery (other than the stock places, which every American talks about), or literature, and they not only don't know, but are taken aback with surprise that anybody should concern himself with such trivialities.

... For music we had frogs (tree-toads, they call them), and what I should have called crickets ; but my host thought they were Katy-dids. Oddly enough, not one of the party was prepared to say whether a 'Katy-did' was an insect or a bird, nor who Katy was, nor what she did, nor why the creature should bear the name, except on condition of uttering a sound like it, which a single shrill note certainly is not. Indeed, they seem highly insensible to the animal and vegetable life around them. I have only discovered three flowers in the garden, geranium, gladiolus, and cane, and the two latter they call lilies.

A few extracts follow, relating to the opening ceremonies which took place in the North-Western States.

*September 3, 1883. 6.30 p.m.*

The St. Paul business is over. We were driven up to the principal Square, and there introduced to a number of St. Paulines. A friendly lawyer took possession of me, and we sat or walked about, looking at a procession which occupied some two hours in passing. A few soldiers, a few militiamen, the various Societies and Institutions, and most of the trades of the town took part in it, advertising themselves in the most open manner. Among other things, Washington and Lafayette appeared hand-in-hand on a carriage. St. Paul city, the N. P. Railway, and the Mississippi were personified by divers young women. The Post Office of 1842 was displayed, a wooden box with half a dozen pigeon-holes, and an inscription stating that in that year its revenue was 3 dollars 25 cents. Then came by a drawing of the present



P. O., with a legend stating that this year's revenue was 184,000 dollars. Then there came an ox-cart inscribed 'To Portland 6 months,' followed by a picture of a train with 'To Portland 4 days.' Well, we got thro' it, and then re-embarked on a train to Minneapolis, where, with slight variations, we had the same performance over again. . . .

*September 5.*

Then off to Bismarck, the capital of Dakota, where we arrived late at night and rested awhile from jolting. Up at sunrise next morning to see the laying of the corner-stone of the 'Capitol,' as the Bismarckians proudly call the building they are about to erect and to make the centre of civilization and empire. It was a most striking and impressive scene. Bismarck is a very ancient city, being fully 10 years old, and its growth has been very slow, as it has only 3,500 inhabitants. But now, having bridged the Missouri and got their railway east and west, they have boundless confidence in their future, and boldly place their 'Capitol' on a high elevation in the open prairie, fully 1½ miles from the existing town. Thither we repaired, or rather, raced in chariots, 50 or 60 carriages of various kinds, including one regulation omnibus, admirably horsed and recklessly driven across the open prairie (for, like our Upper India in the dry weather, the prairie is an open road), each charioteer choosing his own course, and apparently caring only to outstrip his neighbour. I never expected to make one in a chariot race, just as John Gilpin 'little thought, when he set out, of running such a rig.' However, we arrived safely, which I was surprised at after my two spills at the other *neapolis*, of which I think I told you. Then Villard laid the corner-stone under the auspices of the Governor-General Ordway. The speaking was really excellent. Every man seemed, in his own way, deeply impressed with the solemnity of the occasion. Ordway was brief and emphatic in his introduction of each speaker; Villard gravely historical and statistical. Mr. Billings then spoke; he is one of the original promoters

of the N. P. R., who was doomed to meet with failure and (temporary) ruin. I am at this instant writing at a city, named after him. N.B. All the settlements are 'cities' here, just as all the meals are 'banquets.' . . . The only exception to the serious tone was General Grant, who came forward reluctantly, and after much pressing. He began by saying that his great fault was, that when he once began to address a crowd, he never knew when to leave off. He speedily belied his words, however, for after a sentence or two in a jocular vein, he ended by saying, 'I am very glad to have come here, but very sorry that you called on me to speak.'

Then the Governor dismissed the assembly. A strong element of pathos was imported into the scene by the appearance of the former Lords of the country, in the person of Sitting Bull and the remnant, about 20, of his powerful tribe, the Dakotas or Sioux. 'In that man,' says Evarts, 'you see the only foreign power that has made head against the United States.' And in fact, he waged war, not altogether unsuccessfully, for 20 years and more. But his people have dwindled away, and he is left nearly alone. I was introduced to him, shook hands, and exchanged a sentence or two through an interpreter. He is about 65 years old, quite active, and sits a horse easily and well. His face is one of great power, with the confident, steely, impenetrable smile that characterizes Sphinxes, and, to some extent, Disraeli. We left Bismarck full of wonder and delight, at all events I did.

Pend d'Oreille, *September 9, 1883.*

After the speeches the rails were laid. About 100 yards on either side of the meeting points there were no rails on the sleepers, but at each end of the space trucks of rails and a gang of navvies were kept in readiness. At a given signal the trucks advanced and the rails were cast down, laid and riveted with great rapidity. When the last one was laid, Villard struck a blow to a rivet (whether really a gold or gilt one I have not been able to ascertain), and this set in motion an electric battery, which (at least so we were told) flashed

the news simultaneously to Portland, to New York, and to England. Then the band (a U.S. cavalry band) played 'Yankee Doodle' and 'God Save the Queen' (acknowledged by the English party by bare heads and a cheer at the end), the 'Wacht am Rhein,' and the 'Marseillaise.' . . . A little cessation from noise is very agreeable. The jolting does cease for awhile when the train stops and we get out, but the noise of the stations is often as great as the noise of the moving train. Besides the bustle of speaking to a number of people, there are bands of music, and worse than that, salutes of guns. At one place they saluted us with dynamite, so close that, besides making everybody jump out of his skin, they blew in two of the windows of our car, which is now fitted up with boards instead. And at the point of ceremony they insisted on giving an Imperial salute, so we were made to start and deafened by two guns fired 101 times within 30 yards of us.

After witnessing these ceremonies, Lord Hobhouse and his friends were carried on to Portland (Oregon) and Victoria (Vancouver's Island). On their return journey they visited the Yellowstone National Park and Niagara. We append some extracts from his letters describing the Geysers at the former of these places.

Yellowstone Hotel, *September 22.*

This morning we woke up at the Southern Terminus of the Yellowstone Branch Railway, in a very wild and desolate valley between high mountains; then we were dragged up by gallant horses to this place, and those of us who did not go onwards have been spending the rest of the day in looking at the 'Mammoth Hot Springs,' and bathing in sulphurous waters. It is a very curious scene. Looked at from below, it seems as if the valley were filled up by a glacier of great magnitude. This glacier, however, is only the deposit of the Springs, of which the exposed part that we can see can hardly be less than 500 feet in thickness. The name Mammoth does not come from any fossil remains, but merely from the big

scale of the concern. There is no beauty in the general view, which is rather glaring and desolate. But as you walk about the place there is a great deal that is very curious and very interesting. Some of the springs make large promontories with cliffs 30 or 40 feet high, others form isolated cones, one of which is said to be 45 feet high; others large platforms, others deep cups or craters, others a succession of terraces. And there is not lacking considerable beauty of detail and colour. The sides of the cliffs and cones are covered with fretwork and arabesque patterns, and each terrace is bordered by a projecting lip, on which the trickling water is always tracing new lines. One of the most remarkable springs has thrown up mineral matter (pure silver, I am told by Professor von Zittel) in the shape of a gigantic beehive, I suppose 30 feet high. It is so even in shape, that the water rising from the centre, pours down all the sides and covers them with fresh shining deposit, some pure white, some a rich orange. Of course it grows rapidly in size, and it has already embraced and destroyed several pine trees. Unfortunately, the American public are allowed to walk about wherever they please, and the consequence is, notwithstanding the great extent of the formation, the greater part of the delicate work is trampled on, and broken to pieces.

Norris Geyser Basin, *September 25, 1883.*

I am glad to have seen Geysers, having read about them in early childhood (in *Winter Evenings*, I think) and having had my imagination somewhat inflamed by them. The Upper Basin, which we reached yesterday, is much the most energetic, having several large fountains which play to a great height. I only saw two. One is called 'Old Faithful,' because of his extraordinary regularity in playing at intervals of an hour. He is said sometimes to throw a jet of 150 feet high. I should say that the 5 jets I saw were from 60 to 80 feet. There being no Chinamen in the place, 'Old Faithful' plays the part of washerman, but he will only wash linen rightly, and that he does not either starch or iron. Woollens

he tears, perhaps he calls it mangling. One man employed on the survey showed me a pair of brown holland inexpressibles very well washed, merely by being put into the centre of 'Old Faithful.' He is, however, a little irregular about sending home. Several of my German friends put their handkerchiefs in. One man, a doctor, thinking, I suppose, to have his washing done cheap, cast in two. All were returned at the next eruption except three, including those belonging to the doctor. This morning one was found, frozen stiff and stark, but well washed. Alas! the doctor's two never reappeared in time, but his friends console him by saying they will come some time, and he will benefit somebody in the neighbourhood at the expense of a great scolding from his wife when he gets home.

TO LORD FARRER.

National Hotel, Yellowstone National Park,  
Mammoth Hot Springs, Wyoming Ter., *Sept. 23, 1883.*

I take advantage of a short lull in this locomotive life to send you a few words of good wishes on your change of title. I suppose you care for it as little as most men, but to anybody compliments and acknowledgements of good service are acceptable, and to be ranked among the ornaments and luxuries that make life pleasant. I had before sent a message of kindness in one of my hurried and scrappy letters to Mary, written by fragments amid joltings and hustle, and 'mailed,' or rather given to others to be mailed, under circumstances which leave a pleasing uncertainty as to their chance of hitting the mark. The Americans, being determined to have the biggest Park in the world, have seized upon a tract of mountain land (65 miles  $\times$  55), and have placed it under a Superintendent. A Company has received power to erect divers hotels, and this is the first, just completed. There is no population and no produce, and a party of engineers has just begun to make roads, or what they now call roads, consisting of a series of pitfalls



disposed on steep slopes. However, horses do drag over such places carriages which do not go to pieces in the process, and as I am to enjoy more than a hundred miles of such travelling in the next two days, I had better not abuse it. We have lovely weather, bright hot sun, and frosty nights, and are at present free from smoke of forest fires, which is almost always present to spoil the scenery west of the Rockies.

In 1885 he himself became a peer. The Government's motives in offering, and his motives in accepting, a peerage are to be learnt from the following letters, the first of which was addressed to him by his old friend, Lord Selborne, the retiring Lord Chancellor.

*June 24, 1885.*

DEAR HOBHOUSE,—I hope you will pardon me, for having made it my request to Mr. Gladstone, on our leaving office, that you should be offered a Peerage: and you will see, from his letter to me just received, which I enclose, that it is only for you to say whether you will accept it or not.

I did not ask it from any belief that a Peerage, in itself, would be much (if anything) of an object of ambition to you. But I thought it would be greatly for the public advantage, that you should be enabled to do the same good service, judicially, in the House of Lords, which you have done in the Privy Council. I have always regretted the circumstances which, by making so long a break in your *professional* career, made it difficult to find the means of receiving for the public the benefit, on the Judicial Bench, of your accurate knowledge of equitable principles, and your other eminent qualifications to do service in this way. When I asked you to undertake the work of the Judicial Committee, it was in the hope and belief that you would establish there such a reputation as might (in one way or another) overcome the effect of these circumstances; and I am assured that this has been the case.

I *do hope* you will accept. I think there can hardly, in your case, be any private reasons to the contrary. Since Cairns's death, I am the only Equity man in the House of Lords—I am a good deal older than you—and Equity is, now more than ever, important.

Please send me as early a reply as you can.

Ever yours affectionately,

SELBORNE.

FROM LORD HOBHOUSE TO SIR C. ILBERT.

Bournemouth, *August 26, 1885.*

Many thanks for your letter of the 31st ult., just received here. A peerage is unsuitable to me in several respects, nor has it been offered to, or accepted by, me as a 'reward,' 'recognition,' and so forth, or with any political aspect, but solely on professional grounds, that I may help in the appellate work. This is the work which I like best, and is the most suitable to me, and so I am glad to have it. I would far sooner have had a more modest post with a modest salary, but unfortunately all such things have been denied to me.

As a member of the Upper House, Lord Hobhouse took little active share in the pitched battles of party, but he worked hard for important if less conspicuous objects. He took the first opportunity of advancing a cause which he had much at heart, the reform of copyhold tenure. Previous legislation for promoting copyhold enfranchisement had been largely nugatory, because the whole cost fell on the tenant. In July, 1885, Lord Hobhouse moved the second reading of the Copyhold Enfranchisement Bill, which was designed to give effect to the defeated intentions of earlier Acts. Under the Bill the lord of a manor was to be obliged, when admitting any one as his tenant, to offer to take compensation, the compensation to be fixed by agree-

ment or a valuer. The Bill was rejected by forty-six votes to fourteen. In March, 1887, when an almost identical Bill came up from the House of Commons, Lord Hobhouse moved and carried the second reading, and the Bill was referred to a Select Committee. The Bill was a good deal altered in committee, and Lord Hobhouse's efforts were directed to preserving as much of its usefulness as he could. Ultimately the Bill passed into law, and was supplemented later by a Copyhold Amendment Act, introduced by Lord Hobhouse in the Lords because the House of Commons had struck out some of the clauses of the original Bill. There was a consolidating Act in 1894.

He made a notable contribution to a kindred subject by two articles in the *Contemporary Review*, in which he preached emancipation from the 'dead hand' in a direction that had been suggested to him by his experience as a member of the Royal Commission on the best means of simplifying transfer of land. An earlier Commission in 1857 had suggested that there should be established a general Registry of Titles, in which each property should be entered in a name or names representing absolute ownership, so that the registered owners could confer a good title on a purchaser. This system was to be protected from abuse by a system of notice, under which every person entitled to an interest in the land might have full warning if his interest was to be transferred, just as a judicial order may be procured to prevent the transfer of Consols without notice. In 1862 a Bill was passed under the auspices of Lord Chancellor Westbury, which went on a different plan from the plan recommended by the Commission. It provided

that every kind of interest should be entered on the registry: the registry it established was a registry, not of complete ownership but of deeds. It required further that every title should be made perfect before it was put on the register. The result was that the system was very expensive, and nothing was done. The Commission on which Lord Hobhouse sat was appointed because of the failure of the Act of 1862. It reported in 1869 and recommended a return to the simpler procedure suggested in 1857. In 1875 an Act was passed, establishing a Registry on that system. This Act, however, accomplished little, and Lord Hobhouse was not surprised, because it had fallen to him to prepare the rough draft of the Report, and in examining closely the evidence given before the Commission he had made up his mind that it was impossible to obtain a simple system of transfer as long as we retained a very complicated system of laws. 'For our settled estates,' he wrote afterwards, 'with their numerous contingent remainders, shifting and springing uses, and jointures, and portions and terms of years, and two or three layers of family charges, to be transferred by the simple process of entry in a book, is, as I believe, about as easy as it is for a camel to pass through the eye of a needle.' Foreign systems of registry, he pointed out, were all based on systems of law which did not admit our long settlements of land. 'Long settlements make fettered land: simple ownerships make free land.'

'Free land,' in this sense of the words, was the subject of two articles that he contributed to the *Contemporary Review* in 1886 (February and March). 'In my mouth,' he said, "'Free land" means land

which the living possessor is free to deal with according to his needs or wishes, without being fettered by old arrangements made by former owners who have gone where they no longer want land.' In these articles he traced the growth of the system of entailed estates. After the Norman Conquest great landowners tried to keep land in their families by entailing it, i.e., by giving it to the head of the family and his issue, or, in effect, giving it to the family, not to the individual. The kings, the judges, and the clergy resisted this scheme, and the judges declared that such gifts carried complete ownership, subject only to the condition that if the head of the family had no issue, the land given was to revert to the donor. But in Edward I's time, the barons had become the most powerful order in the kingdom, and they passed in the House of Peers the Statute of Entails, which insisted that in these cases the will of the donor should be observed. When the Wars of the Roses had shattered the nobles, the burghers were able to evade this statute by fictitious lawsuits called Recoveries, in which a stranger, who was really the agent of the landed owner, brought an action against him, and, by his connivance, got judgement. In *Taltarum's* case, 1472, the validity of these sham lawsuits was established. After the Restoration there was another change in the balance of power, and the nobles, making allies of the lawyers, who had so often defeated them, were able to rebuild the system of Family Law. That system had had the effect in two centuries of accumulating great masses of land in a very few hands, and Lord Hobhouse proposed to repeal the Statute of Entails and to forbid gifts to the unborn, leaving



every owner free to choose the persons, among the living, who were to succeed him in the possession of his land. This reform he regarded, not as the only reform that was wanted, but as the condition of all true reform, for it was the only means of simplifying transfer and breaking up the concentrations which had been effected by two centuries of Family Law.

Another Bill of which Lord Hobhouse took charge was known as the Sunday Bill. There exists on the Statute Book a harsh Act drawn up by Dr. Porteus, Bishop of London, in 1781, enacting that any place opened or used for public entertainment and amusement or for public debate upon any part of 'the Lord's day called Sunday,' to which persons are admitted by payment of money or by tickets sold for money, is to be deemed a disorderly house. The keeper is to forfeit £200 for every day, the manager or master of the ceremonies £100, and every doorkeeper or servant £50. The advertising or publishing any advertisement of such an entertainment entails a penalty of £50. In 1894 the Leeds Sunday Society employed Max O'Rell to give a lecture, and as the lecture was humorous it was taken to come under this Act. A prosecution was instituted, and it only failed on the ground of a technical irregularity. Lord Hobhouse, who was President of the Sunday Lecture Society that year in succession to Huxley, brought in a Bill in 1897 to provide that no prosecution should be instituted without the consent of the Attorney-General, thus eliminating the common informer, and also that the Act should not apply to 'lectures or music, if the proceedings were undertaken for the public good and not for the profit of the promoters.' He pointed out

that there were other cases in which the consent of some public authority was necessary to a prosecution, and that at present prosecutions might be instituted against the will of the public or the authorities, and yet the Act only existed to protect the public. The Bishop of Winchester moved the rejection of the Bill, on the ground that it would lead to Sunday labour by the employment of musicians. Lord Cowper, Lord Farrer, and Lord Herschell all spoke in favour of the Bill, Lord Farrer laying stress on the fact that the law made distinctions, as in the Joint Stock Companies Act, between associations that were carried on for profit and those that were not. The two Archbishops and the Lord Chancellor opposed the Bill, and it was rejected by fifty votes to thirty-seven.

Lord Hobhouse did not speak in the debate on Home Rule, but he was one of the small minority to vote for the second reading of the Bill of 1893. He had made up his mind, after long deliberation, that Home Rule was a better solution of the Irish difficulty than any solution that its opponents could provide. This conviction grew on him steadily, as the following letters indicate.

TO LADY HOBHOUSE.

Privy Council Office, *Feb. 27, 1889.*

The brothers C. both there: stupider than ever: intimately persuaded that the break-down of *The Times* case is due to some mysterious wickedness of Parnell and his allies, and hoping that Parnell would be put into the box and turned inside out. And such, I suppose, will be the position of many of our Unionist friends. To-day's events, however, will dash their hopes, because Parnell has been in the box, and not a word asked by the Attorney-General, who has

entirely withdrawn the case *quoad* the letters; and it is by no means certain that Parnell need be examined on the other part of the case.

Butt told me that a stout strong man, a medico, after giving evidence in chief very quietly and clearly, got a little flustered with the first questions in cross-examination, quite trivial ones, fell down and was taken up dead. And we were speculating what would have been the result had such a thing happened to Pigott, and on what accidents the event of a combat may turn. Davey tells me the Unionist party are very depressed just now: but I expect that will not last long. They will soon find out that the Parnell-letter question has no real bearing on the Government-of-Ireland question; though they were fools enough, and I think we must add base enough, to trumpet it forth as conclusive against Parnell. Much more permanently damaging to them will be Balfour's legal proceedings. Great masses of people have now got thoroughly hold of the facts, that what is innocent in England is crime in Ireland, that political leaders are prosecuted on trumpety pretences, at times selected so as to hamper their political actions, tried by inferior judges with no juries, and punished very harshly; and that as the result the criminals are honoured and the law and its agents detested. That is the truth, and time will increase its effect instead of taking it away.

TO MR. A. G. SYMONDS.

*April 2, 1891.*

I doubt whether we have ever found ourselves in circumstances which have raised so interesting a constitutional struggle, or which have tested the reality and depth of the professed Liberalism of Englishmen, as they are now tested by the effort to give local self-government in Ireland, and to shake off the heavy hand of the conquering class, never able to hold its own except by force applied from the conquering country. When I see Englishmen just enough to

extend to their weaker neighbours in Ireland the liberties they have won for themselves, I shall begin to hope for the much more difficult position in India; but not till then.

Lord Hobhouse's views on the position of the House of Lords, after nine years' experience as a member of that body, are given in an article in the *Contemporary Review* of December, 1894. In it he urges the need for reform in the constitution of the House. A second chamber he considers desirable as an efficacious 'corrective machinery' when the House of Commons has turned out 'rough work.' To prevent this second chamber becoming obstructive, he suggests that after the Peers have twice rejected or twice altered a measure, 'the Commons should have power to resolve that the measure ought to become law, notwithstanding the opposition of the Peers.' With regard to the constitution of this new House of Lords, he would do away with hereditary rights of legislation, and make it a working body of, say, from 200 to 250 men appointed for life or *ex officio* by the Crown, or, in other words, by responsible Ministers. 'Peerages not requiring the labour of legislation, garters, stars, baronetcies, knighthoods, and so forth' could still be bestowed as rewards for partisans, and the House of Lords would consist of men of ability, 'not liable to irruptions of inexperienced men whipped up for special political combats.' The House of Lords would gain in dignity; 'when overruled, they would be so in due course of business, as a judge is. They would not have to pass under the yoke of humiliation, as they now are, from the application of political pressure, or, in plain English, fears that something worse will happen, and make them pass into law something that

they disapprove.' Lord Hobhouse had taken too large a part in fights against vested interests for him to think any such change as that he outlined easy to accomplish.

That the struggle for such a reform will be most arduous and prolonged, it is impossible to doubt. Behind the House of Lords stand the 'interests'; that is, the powerful interests of wealth and privilege, whose possessors cannot bear to be meddled with, and yet which the growing popular forces see more clearly year by year that it is the interest of the nation at large to control or modify: the Established Churches, the liquor trades, the City and Guilds of London, the dominant caste of entail and primogeniture, the great landowners, and the great monopolists. Add to them the cranky-headed men who, professing the desire for reform, do all they can to hinder it, unless it is laid out in every jot and tittle according to their own fancies; perhaps not a very numerous class, but a troublesome one. Add, again, the classes—numerous in all ranks, and of overwhelming proportion in the richer ranks—of those who from steady conviction distrust and fear the growth of popular forces, or who from tradition or association always place themselves in opposition to every demand from the popular side. Such forces as these make up a formidable army, very strong in numbers, and stronger still in money, organization, and ability, both literary and political. Still, it is difficult to doubt that the mass of electors are much more numerous, if only they choose to bestir themselves. They will do so with effect when they see how distressing and dangerous the present posture of things is, and how reason and experience alike point to reform. That, unless I mistake, will require time, and hard work, and courage, and patience under reverses. So it behoves all who are clear in their minds that the welfare of our country is best promoted by the free and healthy growth of popular forces, and that the obstacles raised by the House of Lords thereto are irritating to the



extent of danger, to bring home those beliefs to the electorate—each in his own way and as it is given to him—by quiet exposition, close argument, eloquence, organizing power, zeal, and weight of character; trying not to exaggerate or to extenuate, but striving in patient and hopeful persistence until the truth prevails.

## CHAPTER V

### LONDON GOVERNMENT

ALL reforms that have overthrown or arrested the power of formidable interests have owed much of their success to sustained and patient efforts that are almost unknown to the public. This is true even of measures that seize at once the popular imagination, and attack grievances of which the community is directly and passionately conscious. It is much more true when the wrongs and abuses that are to be abolished have quartered themselves on the apathy and anarchy of a population which lacks the means of anything more than a random and occasional protest, and seems to have lost with the capacity even the will to organize its common interests. This was the state of London thirty years ago, when a few resolute men determined to obtain for the capital the rights of civic freedom and municipal life that were enjoyed by some of the smallest English corporate towns. This great reform seems to-day so inevitable and irresistible that it is difficult to do justice to the energy, courage, and devotion, without which it could never have been achieved. In those successful efforts to stimulate in a languid and indifferent London the desire of self-government, and a sense of all the hundred injuries suffered directly and indirectly from misrule, Lord Hobhouse took a leading and indefatigable part.

The question of local government had interested Lord Hobhouse long before he joined in starting the London Municipal Reform League. In 1863 Mr. James Beal, the pioneer of London reform, got up a petition asking for a common municipal government. Mr. Hobhouse, among many others, signed this petition, and found himself in an unexpectedly prominent position, for the Clerk of the House of Commons, seeing no other signatures on the particular sheet which contained his name, chose that sheet for publication, so that the petition appeared to the public as a petition from Mr. Arthur Hobhouse. In 1878, the year after his return from India, he became a vestryman. His vestry, that of St. George's, Hanover Square, he once described as the most Tory body in London. This experience he found very useful afterwards. 'I have been ten years a member of a vestry,' he said in 1888, 'and during that time there has not been even a suspicion of a job. There are, I should say, at least twenty members, some working tradesmen, others persons of position and leisure, who devote a very large amount of time and labour to the unpaid service of the community. But the impossibility of acting in the common interest for want of a common organization is always turning up.' He lamented what he called 'the hugger-mugger way' in which vestrymen were elected, with the result that they represented the wealthy and substantial middle-class, but not the poor. 'I am very sorry for it, I never lose an opportunity of deploring it, but the fact is that the artisan classes of London are perfectly supine about their local affairs. They will make a great fuss and agitation over a Parliamentary election, when they

may succeed in sending to the House of Commons a man who will be one in 670, and who may once or twice a year have to speak or to vote on some subject directly bearing on their lives. But when it is a question of a Vestry or a School Board, which does not seem so grand a thing, they will not stir a finger to return a man whom they trust, though he may have one voice in fifty or sixty, and though he must very frequently, and may every day, be engaged in matters which directly concern the education of their children, or the health and comfort of their dwellings.' The cause of London Government was included in his election address at Westminster, and he threw himself with ardour into the work of the London Municipal Reform League, which was started in 1880. It took eight years of hard work before he and his comrades saw the fruit of their labours in the establishment of the London County Council.

The position of affairs when they started on their campaign was afterwards summed up by Lord Hobhouse as follows :—

We found that London was in a lamentable state of disintegration and weakness. Like other great towns, it was in essence one community of human beings; but it was so situated that in a great many respects it did not act as one community. It had common interests in fresh air and pure water, in traffic and public order and supplies of food, and in treatment of the poor when they fell down crippled in the acute struggle of life. There were common interests, but they were not served by a common government. Something had been done. The vestries had been strengthened in 1835, the Board of Works had been erected in 1855—the first attempt at getting a representative body drawn from the whole of London, though it was a weak attempt. More

had been done in the creation of the School Board—the first attempt at a direct representation of the whole of London. But still it remained the fact that over nearly the whole area of civic life the old chaos of haphazard parishes remained, and there was no common authority either to regulate the interests of Londoners *inter se*, or to represent London as against strangers. There are many cases in which the interests of London as a whole are on one side, and, say, a railway company, or a water company, or a person absorbing common rights—you can find plenty of instances for yourselves—the interests of those foreign bodies on the other side. In those cases London stands impotent before the aggressors; it has always been victimized; it has not the power to protect itself which is possessed by the smallest corporate town in England.

Some account of the work of the League was given by Lord Hobhouse in 1889, on the occasion of a presentation to Mr. J. F. B. Firth, its chairman.

When the League began to work in 1880 the prospect seemed a hopeless one. They found opponents in all the local institutions of London, above all in the City Corporation, with its big and powerful organization, and the public purse behind it which it controlled without any liability to account. In these circumstances they had to move the mass of Londoners, who were sunk in apathy and ignorance. After two years of work it became apparent that the League was making progress, and the easy contempt with which they had been at first regarded was changed for fear and anger, leading to vituperation. The favourite charge against them was that they were 'a few obscure agitators,' which was exactly true; for they were few, they were obscure, and they were agitators. But they had the right on their side, and they worked on till it became obvious that the majority of Londoners desired to have a single government for the management of civic affairs, and it became practicable to prepare a measure for that



purpose. In 1880 such a thing would have been futile; but in 1884 it had become possible. A large and statesmanlike measure had been introduced by Sir William Harcourt in 1884, though it had not passed into law; but in 1888 the thing was actually done.

This propagandist work was carried on chiefly by means of meetings, and the meetings were at first very little calculated to encourage the reformers. Lord Hobhouse never spared himself, and he was just as ready and eager to give one of his luminous expositions of the case for reform when the audiences were, as they were generally at first, what he called 'very select specimens of the human race, but decidedly thin in numbers,' as he was when, as happened later, they were large and enthusiastic. Lord Hobhouse believed from the first that the mind of Londoners was capable of being fired by 'the grand and animating ideal of the unity of London.'

Of this ideal he wrote as follows to *The Speaker* :—

First of these spiritual or non-mechanical forces, I rank the great and animating ideal of the unity of London, placed before Londoners by the noble courage and public spirit of Mr. Beal and Mr. Firth, who just lived to enter into the Promised Land, and by a number of their less-known fellow workers in the cause of London Municipal Reform. As long as the idea was presented only to the high-placed and wealthy members of London society, it was treated as purely visionary. The Royal Commission which reported in the year 1854 disposed of it partly by an epigram, saying that London was not a town, but a province covered with houses, and partly by reference to the lamentable fact—as though it were not something due to the neglect of man, but an unalterable provision of nature—that the different parts of London, being distant and populous, knew nothing of one another. This is not the place to fight

battles over again, or to show the ways in which these fallacies were exposed, and the truth that London is essentially one community of human beings, which ought to have an organic government of its own, was established. Suffice it to say that, after a while, we found that no topic was more easily seized by our audiences than that of the unity of London. It may seem strange to the upper ten thousand, who live in the pleasantest parts of the town, and who, after all, are hardly Londoners, for they run away to their pleasant rural homes, where their interests are, directly they have earned their money or have had their amusement, as the case may be—it may seem strange to them that the shopkeeper or artisan should have his imagination fired with the greatness of London and with the idea of making all its parts work together for the good of the whole. Nevertheless, I state the facts as they have shown themselves to my eyes. I believe that this ideal has become part of the minds of multitudes of Londoners; that it is now an assumed premiss in their reasoning; that it has played the principal part, whether consciously or unconsciously, in their recent action; and that it is destined not to decay, but to grow and to produce more and more good fruit.

The agitation for a central London government was Lord Hobhouse's main interest and concern during the eight years it lasted. He found time for an active share in the resistance that was made to the continuance of the coal dues of 13*d.* a ton, which were levied by the City Corporation within an area of fifteen miles from Charing Cross. The Board of Works introduced into Parliament a Bill to continue these dues till the end of the century. Lord Hobhouse spoke against this proposal in Holborn Town Hall in March, 1887, and his speech was afterwards printed as a pamphlet. Later he carried a resolution in the County Council condemning it: with the result

that the proposal was abandoned. For two years, 1882-4, he was a member of the London School Board. But every London question revolved in his mind round the central need for a single government. This was brought out by a resolution which he carried at a meeting of the London Municipal Reform League in December, 1887, after making a speech to show how the want of representative institutions complicated and aggravated all those problems, alike of administrative relief and of public order, that presented themselves when the question of the unemployed became acute. The resolution runs as follows: 'Having taken into consideration the following circumstances, viz.: the number of unemployed persons in London; the absence of any accurate knowledge either of the number or their condition; the state of unrest in which the poorer classes are; their desire to make their wants and feelings manifest in the wealthier parts of the town; the impossibility of their doing so, except by general meetings in the open-air, they having no local representative institutions, and no buildings in which they can meet; the disputes which have arisen regarding the use of public places for this purpose; the disastrous collisions between masses of Londoners and the national police owing to those disputes; the absence of any adequate municipal police; this Committee resolves:—That the necessity for establishing a single Representative Municipality of London becomes more urgent year by year, and that the postponement of such a reform is fraught with danger.'

In 1888 Mr. Ritchie included in his Local Government Bill some clauses creating a County Council for London, and thus (somewhat unexpectedly) the re-

formers found their capital object attained. Some of the members of the Municipal Reform League not unnaturally concluded that there was no further use for the League. Lord Hobhouse took a very different view. He pointed out that though much had been done, much remained to be done: and the League could still work with benefit to London. Rates ought to be equalized; the police ought to be under the control of the Council; the areas of the subordinate local governments should be largely readjusted; the City ought to be absorbed into the County Council, and the licensing of public-houses ought to be given to the Council. Lord Ripon, who had taken an arduous share in the labours of the League, held the same opinion, and it was agreed unanimously at a meeting held in November, 1888, that the League should continue its existence for the future work of municipal reform. It was indeed obvious that a great deal would depend on the spirit in which London used her opportunities. Lord Ripon and Lord Hobhouse both laid great stress on the importance of making London's first representative body as strong as it could be made in ability and in grasp of London problems. Lord Hobhouse published a letter in the *Star* to this effect.

I wish to say what may induce men of ability and ambition to offer themselves for election; and what may induce electors to choose men of the most statesmanlike qualities, with reference only to municipal questions, and not to the side they take in national politics. London is peculiarly unfortunate in this, that most of her men of wealth and leisure, who can easily attend to public affairs, have homes elsewhere which they prefer to their London homes, and where they place their local interests to the

neglect of London. I wish to point out that it is worth the while of any man, be his powers what they may, if only he feels himself strong enough, to take part in the first formation of London government.

When the School Board was created, men and women of the highest abilities came forward to fashion it, and the electors had the good sense to choose them. Few of them could afford to remain many years, but they worked long enough to put in action a very powerful machinery for education, which their successors have had the easier task of keeping in action. They have reaped honour and gratitude for that statesmanlike work, and have not repented their sacrifices.

Now the work which lies before the first County Council is greater in magnitude and intricacy, and hardly, if at all, less important than the first work of the School Board.

From what I heard on Monday, and have read since, I know there are those who think that the main alteration just made is that London will now have a Board directly elected, instead of one chosen by the Vestries, to perform some executive duties running in fixed grooves. Such thinkers can hardly know much of the agitation of the last eight years, or of the reasons which have roused a large mass of Londoners out of their old apathy in local affairs, to demand local self-government. It is a shallow and inadequate conception of the case. Londoners have asked to be organized in order that matters appertaining to London as a whole may be properly discussed in the presence of all interests, and the prevailing currents of feeling and conviction may be ascertained. That has hitherto been impossible, but it will now be done. From the time when London outgrew the bounds of the City, till the creation of the Board of Works, there was no Local Government of London. That body and the School Board constitute the only attempts to remedy the defect. There are long arrears of neglect to make up, and to do it is a task of first-rate difficulty.



The parochial system in London is an anachronism. For ecclesiastical purposes it has been broken to pieces. But for civil purposes it still remains, and largely governs our administration and our rating. Now London is one great community. The tide of human beings has submerged parish boundaries, which are only ascertainable in a legal and artificial sense. The rich have drifted into some parishes and the poor into others : but the rich are the rich of the whole of London, and the poor the poor of the whole. Each part of the town should be treated as part of the whole, and the present anomalous areas of jurisdiction should be reformed. The Act invests the Council with powers for this purpose, and no doubt they will be used. But then the alteration of areas and jurisdictions is mixed up with the question of equalizing rates. And so we have a group of knotty problems at the outset.

Another point as to local taxation. The coal-tax expires next year. Many wish it to expire ; many wish to renew it. Mr. Smith has fairly said it is a question for Londoners to decide. How can they decide it except by their representative council ? Is it not to be debated ? Must it not be debated at once ? And when it is debated, do you not infallibly bring on a debate about rates ? Probably all the supporters of the tax are so because they fear an increase of the rates. The answer is, ' Make the owners of property pay rates, and you will replace the coal-tax without burdening the occupier. Let us go to Parliament for that.' The two discussions are inextricably mixed up together. And so we have another group of knotty problems pressing for solution.

Why have not Londoners any police at their command ? Other towns have. The City of London has. The reason is obvious. When the police was established, London, except the City, was a mere geographical expression. It was an anarchy, and could not have a police. Now it is organized, and will be able to have what it has long wanted. The question is not a simple one, because the presence of the national Government complicates it. It must be carefully

adjusted. It may not be immediately pressing in its own nature, but if I have rightly gathered men's feelings on the subject, a great many members will be returned to the Council, pledged to raise the question as soon as possible.

Closely connected with the police is the question of open spaces. It is a question of great importance, becoming more urgent every year as large public meetings grow more frequent. It is quite necessary that there should be such places available for meetings; equally necessary that they should be subject to regulation and control. The matter is essentially a local one, except where the seats of national Government are affected; and it ought to be settled with due regard to the interests of all parts and classes of London. That can only be done by the Council. And so we have a third group of knotty questions pressed on partly by external circumstances, partly by strong feeling.

It would be easy to go on, and to show the direct and immediate effect of the present change upon supplies of the necessities of life, such as water and artificial light, upon markets. Upon the application of endowments we all know that, in the case of London, there must be a large and speedy supplement to the present Act. Is the Council to have no voice in that matter? If it has not, it will be an abortion indeed.

But I have said enough for my purpose—perhaps too much for your space and readers. In matters of pure administration clear-headed, honest, industrious men of business would suffice. I hope we shall have many such, and that we shall give them due thanks and honour for their work; but for the things I have mentioned we want some statesmen: men of original minds, with powers of analysis and of construction, who can grapple with large affairs and can lead others in settling them. And when such a man can be found, what does it matter whether he follows Lord Salisbury or Mr. Gladstone? The dividing lines are different in municipal and national politics. Some

of the most trenchant reformers in municipal affairs that I know are Conservatives or neutrals in national affairs, and *per contra* some of my Liberal friends refuse to move an inch in municipal reform.

I will conclude as I began. To able men I say that a noble and conspicuous field of action is open, which will task all their powers and satisfy any honourable ambition. To electors I say, 'When you find men who show that they have a firm grasp of municipal affairs, send them to the Council, and all London will thank you for it.'

Lord Hobhouse did not offer himself for election, but at the first meeting of the Council held in February, 1889, he was elected an Alderman by 105 out of 118 votes.

In spite of his seventy years, Lord Hobhouse threw himself with great zeal and energy into the work of the County Council. That work he liked none the less because very much of it was not done in the public eye. When he was responding for the House of Lords at a complimentary dinner to Mr. Haggis, on his appointment as Deputy Chairman of the County Council, in November, 1889, he remarked that there was one resemblance between the House of Lords and the County Council, for both of them did little business before the eyes of men and a great deal in the inner chamber. 'Some criticisms of the London County Council were based on the idea that the whole business of the Council was done in one meeting a week of four hours at the Guildhall. Nothing was said about the numbers of councillors who went every day of their lives to the offices and institutions of the Council, who worked there for hours, who did more paper work at night, and who gave up by far the

greater part of their lives and their strength to the benefit of their neighbours.' Lord Hobhouse was Chairman of the Corporate Property, Charities and Endowments Committee, and during 1889 he reported in that capacity on the Livery Companies and their properties, and also on the schemes of the Charity Commission for reforming the City Parochial Charities. No work could have been more congenial or suitable to him, for he had long taken an ardent interest in the right use of London's charities and endowments. Indeed, the powerlessness of London to prevent the abuse and waste of these useful resources was one of the most eloquent illustrations in his eyes of the strong need of a single and representative government. In 1881 he had given a good deal of help to Mr. Bryce in the preparation of his Parochial Charities Bill.

Lord Hobhouse's opinions about the City Companies had been set out in an article which he published in the *Contemporary Review* of January, 1885. That article was written on the Report of the Royal Commission which had inquired into the administration of the Companies. The Commission had been appointed by Mr. Gladstone's Government, and it had issued a majority and a minority Report. The majority Report was signed by the Earl of Derby, the Duke of Bedford, Lord Sherbrooke, Lord Coleridge, Sir Sydney Waterlow, Mr. Albert Pell, M.P., Mr. W. H. James, Mr. Joseph F. B. Firth, M.P., and Mr. Thomas Burt, M.P. The dissentients were Lord Cross, Lord Rothschild, and Mr. Alderman Rotton. The Commission estimated that, after excluding non-productive property, and property which was subject to express

trusts, the available income of the Companies was £440,000 a year. Their expenditure consisted of £150,000 spent on public or benevolent objects, £100,000 on banqueting, and £175,000 on maintenance. This last item was analysed as follows: salaries to officials amounting to £60,000: Court Fees made to members of the governing bodies for attendances, amounting to £40,000, and £75,000 for rates, taxes, repairs, and improvements, the repairs and improvements being chiefly the restoration and decoration of the Companies' stalls. The nine commissioners held that the corporate property of the Companies was of a public nature, and they recommended legislation for the following among other purposes:—

(a) Restraining the Companies from alienating their ancient corporate property.

(b) Securing the permanent application of a considerable portion of the corporate income to useful purposes.

(c) Declaring new trusts of the trust property, where a better application has become desirable.

(d) Publication of accounts.

Lord Hobhouse's article was an historical survey, moderate and judicial in its spirit, of the growth of the Companies, made with the object, as he said, of inducing people to read the Report. It showed how far the Companies had drifted from their original place in the old scheme of government and charity; and stated with unanswerable force the case for Parliamentary action and inquiry. Its conclusions can be grasped from two paragraphs.

It appears to me that all the broad considerations in this case point to the interference of the Legislature as



the right thing. There are some differences in the Companies which would be brought out by such an inquiry as the Report recommends. To the bulk of them the following considerations apply.

They are totally different bodies to what they were formerly. The bulk of their property was acquired in their old character. They were important portions of the Municipal Government. They now play only a small part in it. Their principal functions were superintendence and regulation of trade and of craftsmen. With some few exceptions, those have passed away. The charters show that religious services were one object of their endowments. Those ceased at the Reformation. The charters also show that aid to the poor, the very poor who could find no subsistence, was another object of their endowments. That remains, but the poor of the craft who are now helped are, at least to some extent, not the very poor, nor can this class of objects absorb so much of the endowments, but that a large surplus must remain. Ought it not to be taken, in the absence of evidence to the contrary, that the Companies acquired property in that character, and for those purposes in which and for which they were incorporated, and so enabled to acquire and preserve it? And if that character has passed away, and those purposes have failed, which is the most just and decent thing: that the property should be taken by the miscellaneous groups who by descent, purchase, or otherwise have come into the place of these trade societies, or that the State should step in to readjust it?

When Lord Hobhouse reported in June, 1889, on the Livery Companies, he recapitulated the main facts of the situation, and asked the Council to accept a recommendation that the Government should be asked to introduce a measure for carrying into effect the reforms proposed by the majority of the Royal Commission. The Council, after debating hostile amend-

ments from Mr. Cohen, Mr. Marks, and Mr. Beachcroft, adopted Lord Hobhouse's recommendation, but the reform, like many others, was destined to slumber for many years in the general reaction of national politics. The agitation, however, had a marked effect in calling attention to a neglected subject, and in making the Companies more attentive to their duties.

Other Committees on which Lord Hobhouse served were the Local Government and Taxation Committee, the Parliamentary Committee, the General Purposes Committee, and the special Committee to report on the transfer of business from the Justices of the Counties out of which the County of London was formed.

In the early part of 1890 he had a serious breakdown, and found it necessary to restrict his work. To his brother-in-law, Lord Farrer, he wrote as follows:—

Cadbury House, North Cadbury, Bath, *Sept. 9, 1890.*

How to retrench? Perhaps that is as difficult for the man who has overspent his strength as for any other spendthrift, especially if he is old, and has no balance to draw on or windfalls to hope for. Of one thing all my experience makes me sure, viz. that I cannot do a *little* of anything. I must drink deep or taste not. And as I see my imprudent neighbours running away altogether from their old homes in order to reform their expenditure, so I must cut off whole branches of work to reform mine.

On the whole, my present conclusion is to decline further working on the C. C. Committees, to take up Judicial Committee as my first business, and to endeavour to help the C. C. (if they are willing) by paper work or speech on matters involving principles or demanding research or exposition. It is possible that on such conditions I may usefully retain the Aldermanship for a time, but I must hold myself ready to resign it at the will of my colleagues,

and anyhow shall contemplate resigning it voluntarily before long.

On his return to Council work, after his breakdown, Lord Hobhouse drew up a report on the incidence of taxation as between owner and occupier, for the Local Government and Taxation Committee. In this question he had long been interested. In 1889 he had become Chairman of the United Committee for the taxation of ground rents and values, and had published an article on the Local Taxation of Rents in London, which had afterwards been reprinted as a pamphlet. In this pamphlet he had summarized his main conclusions under five heads.

1. It is desirable that owners of property in London should in some way be made to contribute directly to the common local burdens.
2. It should be decided, after full inquiry, what portion of the rates is justly chargeable on owners.
3. Occupiers should be empowered to deduct that portion from the rents payable by them.
4. All future contracts at variance with such power of deduction should be declared void.
5. In the case of such contracts existing when the new law is passed, the owner should be made liable to bear his share of rates made for subsequent permanent improvements.

An interview which was published in the *Pall Mall Gazette* of January 25, 1888, under the heading, 'Is much to be got out of Ground Rents?' helps to illustrate his position.

'I do not like the phrase "ground rents,"' said Lord Hobhouse, 'for the public has got hold of an altogether mistaken notion in relation to that subject. There seems

to be a general idea that the ground landlords of London form a class distinct in character and limited in number, whose property affords an enormous reservoir of wealth, which can be drawn upon in the future for defraying the cost of municipal government. I think that is a misapprehension. There are, no doubt, a few great landlords whose rent-roll commands the attention and excites the envy of many; but the Duke of Bedford, the Duke of Westminster, and the like, are few; and in most cases the ultimate freeholder is by no means the possessor of such an immense estate as is generally imagined. In dealing with this question I prefer to speak of the occupier and the owner, or rather owners—for there may be and often are many owners to a house. The moment you get behind the occupier you come upon a series of persons having reversionary interests in the property. Sometimes the property is let and re-let and sub-let until there are as many as six or seven persons having reversionary interests in it between the occupier and the original freeholder. Any scheme that is to provide for sharing the burden of rates between the occupier and the reversioners must affect all persons who have proprietary interest in the property. This, however, can be done, I think, by providing that the local rates shall always be paid by the occupier, who should have power to deduct—all contracts to the contrary notwithstanding—a certain proportion, which we will take roughly at, say, £25 per cent., of the total rate from the person to whom he pays his rent. There is difficulty in saying what would be a fair proportion to throw on owners. That must be the subject of discussion. I only put a quarter by way of illustration.'

'That is: you would do in relation to rates what is already done in relation to income tax?'

'Precisely; and it is very simple to provide for a proportionate distribution of the rates between the occupier and the various persons interested in his holding. For instance, let us say that I am the occupant of a house of

the rateable value of £200 per annum, the rate on which is 4s. in the pound. As occupier I pay £40 a year in rates. To my immediate landlord I am sitting at, let us say, an annual rent of £100 per annum. If the proportion prescribed by statute as that payable by the owner is £25 per cent., I should be empowered to deduct 1s. in the pound, which is one-fourth of the rate, from the money that I must pay to my landlord. That is to say, if I pay him £100 rent, I should deduct £5 towards the payment of my £40 rates. The person to whom I pay the rent may hold it again from another owner at £50 per annum rent. He would pay this subject to a shilling in the pound, say £2 10s. deduction, and so on, till we came back to the original freeholder, whose interest in the property may only amount to £1 per annum; but from that £1 there would be taken 1s., so that while the chief proportion of the rate would fall upon the occupier, a certain proportion would be evenly distributed upon all those who had reversionary interest in the holding.'

'But how would this work in cases where the property was rack-rented? In that case I presume the rent on a rateable value of £200 would probably be £250. Would the occupier be allowed to deduct a shilling in the pound upon the £250, while he only paid 4s. in the pound on £200?'

'No; he would only deduct the one-fourth upon the annual value chargeable to the rates. That is to say, he would deduct £10 on his £250 rental—not £12 10s.—because the owner ought only rightly to be liable to the quarter rate on the amount actually assessed. This seems to me the simplest way. There is no other scheme by which this can be effected, short of a total revolution of the whole system of rating, and that is too great an undertaking to be worked out in less than the lifetime of a generation; whereas in London we wish to come with reasonable speed to a more equitable division of rates between owner and occupier.'



In his speech in the County Council on November 3, 1891, Lord Hobhouse addressed himself in particular to two arguments: one, that the owners of property do pay, not part, but the whole of the local expenses; secondly, that there is a supreme economic law which ordains that whatever may be done to place the local expenditure primarily on the owners, they will recover it all in the shape of rent. Lord Hobhouse argued against the first proposition, that the owners resisted the proposal, though, if this proposition were true, the reform would release them from the invidious position they occupy of seeming to pay very little, when they really paid all of the local expenses. The second proposition he contested on the ground that rents had not risen on account of the Income Tax Act, which made the landlords who had hitherto received their rent free from rates and taxes, submit to a tax on their rents, and that interest on mortgage debts had not risen in consequence of the Act of 1842, which imposed a tax that had varied in its history from 3*d.* in the £ to 2*s.*

Some extracts from letters written about this time to Lord Farrer show how keen and critical an interest he took in the affairs of the County Council.

15 Bruton Street, W., *Nov.* 30, '91.

... What strokes of malicious fate the C. C. has had. First Firth, who will never be replaced in our time; then Gordon, when he had just mastered the great problem of drainage; then Haggis; all struck down suddenly in the full tide of life and work. Never was a ship launched in such storms of malignity and hatred from the rich and official classes; and with such lamentable casualties among its officers.

. . . . .

The School Board elections are very ominous of ill. I had faintly hoped they might falsify my belief that the lower strata of London have no political insight or force; but they have corroborated it. The rich people, down to the well-to-do shopkeeper, though not specially active, hang together; but below that there is little but a multitude of incoherent atoms, little command, no obedience, full play given to the vanity, selfishness or combativeness of individuals and small groups. Perhaps the best organized are the Socialists and the few Labour Unions; and they have no pleasure so keen as to defeat those whom they call Whigs, or capitalists, or bourgeois: i. e. the steady Liberals who have done more for them than anybody, but whom they hate more than anybody. I suppose that in time, though hardly in this generation, they will learn the rudiments of politics: that union is strength; that it requires some concession of individual inclinations; that a man who will go some way with you is better than one who won't go any way at all; that persons who seek election are not all self-seekers; that political power cannot be held without constant vigilance; and so forth. But all these things are foolishness to the ordinary London artisan.

15 Bruton Street, W., *Dec.* 20, '91.

I have nothing but ill to report of the L. C. C., partly owing to ill usage from outside, but more to errors inside. One Court of Law decides that Councillors cannot claim privilege for any slanders they may emit during Licence meetings, because they are *not* Judges; and straightway another Court decides that, because they *are* Judges, their proceedings are null and void, if some of them, though not voting, appear by advocate to oppose a licence. Hawkins's ruling is right, I think, and Coleridge's wrong. I should like to know how many J.P.'s appear at Licence Sessions as partisans on one side or the other; and how the business is to be carried on efficiently if some of the authorities do not work at it beforehand; or who contends that such

preliminary work makes their decisions void; or what difference it makes whether members of the Licensing Body speak by themselves or by their advocates. Both decisions may be wrong; but certainly both cannot be right, unless it be right always to trample on the C. C.; for that is the only point in which they agree.

Sandhurst Lodge, *Dec. 27, '91.*

... The colouring is very brilliant here, owing probably to the wet and (until the last few days) very mild autumn: the moss like velvet just turned out at Genoa; the needles of the firs and the bark of birches, rhododendrons and (so-called) dogwoods, of unusually vivid greens, whites and crimsons. But they have suffered an ominous invasion of London soot at thirty odd miles from Hyde Park corner. There is a black scum on the waters and the roads; and the girls tell me that the fog freezing on their garments when skating, instead of being silvery, is sooty. William says he first observed it last year; but it is worse now. It looks bad for the future vegetation and beauty of these parts. People cry out that *something must be done*; and newspaper writers, knowing everything though themselves unknown, are blustering as though nobody ever thought about it till they blew their brazen trumpets; and some ask what is the use of a County Council if it does not prevent fogs and smoke.

Poor C. C.: blamed for everything it cannot do; and blamed for everything it does do. The *Times* thinks it an occasion for triumph over us that we obey a *mandamus*; and a subject for reproach and insinuation of evil motives that we refused the licences a second time.

15 Bruton Street, W., *Dec. 31, '91.*

... C. C. again! All roads lead to C. C. Somebody turns a number of people out of their wretched dwellings in Leather Lane into the murkiest of fogs and the severest of frosts. Therefore, howl at the C. C.; by some occult

means they have done it all. When that fiction is exposed, howl at them again; it is all their fault for not having asked Parliament for power to prevent such evictions. They are placed in this dilemma by that accurate thinker, R. B. First, they did the cruel thing; but if, as the fact is, they had nothing to do with it, they are equally to blame for not preventing everybody else from doing it: for as they have power to prevent rubbish from being cast out into the street, they must have power to prevent human beings from being cast out there; or if perchance they have not, it is all their own fault for not having asked Parliament to give it to them.

15 Bruton Street, W., *Jan. 31, '92.*

I don't believe in the great blowing of horns by Liberal leaders; nor do I much blame the leaders for not having worked in London, simply because there are so few who seriously care to hear them; and it is not their business to create a political community, but to lead it when created. I may be wrong, but when I remember how many years it took us to persuade Londoners: first, that there actually was no Government of London; secondly, that it was possible to have one; and thirdly, that it was desirable; and how, when the machine was created, nearly everybody withdrew from the M.R. League because they said the work was done, I shall disbelieve, until I see the thing with my eyes, the existence in London of any steady force capable of supporting the champions of the poorer classes and districts against a storm of obloquy from the rich. I shall be very glad whenever my error is demonstrated.

In March, 1892, he wrote an article in the *Contemporary Review*, in which he combined with a powerful defence of the general policy of the County Council, an outspoken criticism of some of the details of its administration.

My readers must not suppose that in praising the Council

I am praising myself. I had worked for little more than a year, when I was overtaken by ill health, and have done very little Council work since; though I can see enough of it to speak with confidence of my colleagues; and nobody who is not inside the Council can tell what their work is, because it is nearly all done in committee-rooms, and in visiting institutions and places. Neither must anybody suppose that I assent to the wisdom of everything they have done. I have often voted in a minority. I have above indicated that I think them mistaken in the method chosen to test the equality of assessments. I think them too reluctant to pay the necessary price for skilled head-work; over-ready to pay for hand-work; too confident in their power to regulate wages; wrong in abolishing the pension system; wrong in trying to pay off debt by annuities; too ready to overrule their committees in matters of detail; and there may be other things of the same kind. But on all or any of these things I may be wrong, and others right, and even were I much more confident in my own opinion than I am, these are all matters of practice which experience will test, and which may be set right if shown to be wrong. And they do not at all detract from my estimate of the broad qualities evinced by my colleagues as a body, of the honesty, zeal, self-sacrifice, capacity for business, and general straightness and wisdom of aim, which have won my respect, and which will I feel sure, whatever may be the ebbs and flows of particular elections, attract and retain the respect of all Londoners who care to learn what has been done for them.

The elections for the County Council took place in the spring of 1892, and Lord Hobhouse wrote a manifesto for the Eighty Club Committee. The great victory of the Progressive party at that election gave him much pleasure, and he wrote in the *Speaker* a series of articles on the Unity of London, in which he analysed the causes of the victory, and remarked the significance of the cleavage of districts.



Let any one take a map of the London constituencies, and put a distinctive colour to those which have returned Reactionary Councillors. He will see how nearly they coincide with the haunts of those who are called by the somewhat slang term of 'The Upper Ten Thousand.' The wealthy and privileged City; the wealthy and official Westminster; the wealthy and professional Strand and Holborn; the sites of the great West-End estates—those of the Grosvenor, Portman, and Bentinck families, and of the Church, with their wealthy tenants in St. George's, Marylebone, and Paddington; the comfortable villas of Hampstead, Hammersmith, and Dulwich; the dull, spruce streets and squares of South Kensington, which for the last thirty years have been the settling-ground of rich people: all these places have not any desire at all for a strong, united Government of London. . . .

Of course, it is not possible to give to the poorer classes a share of political power in any exact proportion to their numbers. Probably it would not be desirable, if possible, because artificial political arrangements ought to correspond in some rough fashion with the actual force which lies behind them, in case of conflict. At all events, it is not possible. Those who have the purse must always have at their command a powerful press, the greatest facility of creating machinery, the services of paid agents and of direct dependents. They must have the advantage of being able to abide in the same place, often in a conspicuous position; and, when they are doing good work in the world, as so many of them are, of doing it so as to attract the notice and admiration of their neighbours. By hope, by fear, or by love, it is certain that rich people will influence a great number of others. . . .

The plain and disagreeable fact is that London has been, and is, used as a place where amusement may be got, or social ambition gratified, or money amassed. A man comes for those objects, and stays a longer or shorter time. Then he goes away to his pleasant house in the suburbs or in

further rural districts, where are his wife, his children, his horses, his dogs, his gay garden, his stately trees ; and, if he is far enough from the smoke, clear skies and fair landscapes and all things which enchain the affections to a place and make it one's home. The interests of his country neighbours are his ; but as for his multitudinous neighbours in London, who are called together by his action, or without whom he could not take the action he desires, for the case may be put either way, they, alas, are too apt to be forgotten.

The Council had now passed safely through a great crisis of its existence, and London had ratified its bold reforms. That crisis had been anxiously awaited by Lord Hobhouse, who knew how formidable were the powers that were hostile, and had dreaded the effect of the constant criticism of an unfriendly press, always watchful for its slips and falls. Three great events had marked the triumph of Lord Hobhouse's hopes. One was the creation of the County Council. The second the election of the first Council, and the wise use London had made of its opportunities. The third the election of the second Council, and the decision and enthusiasm with which London had ranged itself on the side of public spirit and democratic reform. It is not surprising that Lord Hobhouse, who was now seventy-three years old, felt that the double strain of his duties at the Judicial Committee and the County Council must be relaxed, and that he could now withdraw from his active part in the work of the London County Council without misgiving for its future. His letter to Sir John Hutton gives the best account of his reasons.

Privy Council Office, *Aug. 8.*

My dear Hutton,—I have at length quite made up my mind to resign my appointment as London County Council

alderman, or, to speak more correctly, to place my resignation in the hands of the Council, who, I assume, will accept it.

Simultaneously with this I send to Mr. De la Hooke a formal notice. But I do not like to leave the body, whose appointment of me has been a source of satisfaction and pride to me, without fully expressing to somebody with what feelings I do so, and I conceive that nobody is so fitting as the chairman for that purpose, the more so because I have just been reading with great interest your detailed report of the year's work, in which you yourself have played so large a part. So far as regards my help to the Council's work I ought to have resigned two years ago, when it had become clear that my breakdown in the first part of 1890 had left me permanently incapable of doing my duty in so many fields as I was working in; and that I must neglect some if I were to cleave to any. I was then overpersuaded by three or four friends whom I consulted, and kept my place till after the re-election of the Council. Now, two things are abundantly clear—first, as regards self, that I cannot properly serve the Council unless I give up other work more suitable for me; secondly, as regards the Council. It is strong, prosperous, ably manned, and, though with plenty of difficulties before it for many years to come, it has struck its roots firmly, and will go on growing in strength and usefulness. The departure of much more valuable men than myself would not materially hurt it now, and I shall serve it best by departing and so making room for some more efficient member. It is needless, after what I have said, to express more explicitly the deep sense of respect and admiration with which I take leave of my colleagues; for their public spirit, their industry, their zeal, and their practical ability. But, I will add, I also feel very grateful to them for the invariable courtesy with which I have been treated, and which has often turned labour into pleasure, though just now it augments the regret with which I close this chapter of my life. With every wish, and with confident

expectation, that you will play a great part in public affairs as chairman of the Council,

I am very sincerely yours,  
HOBHOUSE.

Mr. Charles Harrison, Vice-Chairman of the Council, moved a resolution placing on record the Council's sense of Lord Hobhouse's valuable services, and the resolution, which was seconded by Mr. Antrobus, the Moderate Leader, was carried unanimously. Mr. Harrison referred especially to Lord Hobhouse's report on local taxation. It may be of interest to quote in this place what Lord Monkswell, speaking at an Eighty Club dinner, earlier in the year, had said of Lord Hobhouse's work. 'Lord Hobhouse brings to bear upon our deliberations not only a fine intellect and great attainments, but he also brings to bear upon them what, in a popular assembly, is of equal importance—social qualities: that charm of manner, that utter absence of selfishness which has procured for him so many and such attached and devoted friends. And I may add this of Lord Hobhouse, that he is no respecter of persons. There is no one on the London County Council who chooses to ask his advice who will not get from him all the assistance he is capable of giving, and, on the other hand, there is no member of the Council so powerful or so highly placed as to be beyond the reach of his rebuke. I have heard Lord Hobhouse take to task no less a person than Lord Rosebery himself, with a courage and pertinacity that fill me with admiration not unmingled with awe.'

Though he was no longer an Alderman, Lord Hobhouse's interest in the work of the County Council never flagged, and two years later he took a leading

part in fighting the Council's battle over Betterment. One of the first results of the creation of a single government for London was to give concrete form to the strong but hitherto ill-organized desire to recover for the community some part of the wealth with which its improvements enriched private persons. In principle most people agreed that it was just that a man whose property was raised in value by some particular improvement, effected by the public authority, should make a special contribution to the expense of that improvement. In practice it was not easy to find a scheme that was fair and simple of execution. In 1889 the County Council made provision of this kind in a Bill, but it was rejected by the House of Commons. A second attempt in 1893 was more fortunate, for a Bill containing a Betterment scheme passed the House of Commons. This Bill provided that within what were known as 'the limits of deviation,' i.e. limits within which land may be taken under the Bill for an improvement, land shall be liable to an improvement charge in respect of any increased value or benefit which the land might derive from the improvement. The Council was to assess this enhanced value, and there was to be a special charge of 3°/ on one-half of the enhanced value. If the owner objected, the Local Government Board was to provide an arbitrator, whose decision was to be final. The arbitrator was to consider the several interests of the land, and he could either postpone the commencement of the charge, or apportion its incidence between the freeholders and others during any existing term of years. This scheme was carried in the Council without a dissentient voice. In the House of Commons it was carried by a large majority



both of the House and of the London members. When the Bill came up to the House of Lords the second reading was moved by Lord Hobhouse, but Lord Onslow moved and carried a resolution to the effect that proposals for the assessment of capital values instead of annual values, and for creating new and 'arbitrarily-defined' areas of taxation, ought not to be included in a private Bill, but, if found just and equitable, should be based on general principles laid down by Parliament. This part of the Bill was therefore struck out in Committee, and the amended Bill was returned to the House of Commons, which decided by 221 votes to 88 to disagree with the Lords' amendments. The House of Lords rejected Lord Hobhouse's motion that it should not insist on its amendments, and in the autumn session it carried, against the Government's opposition, Lord Morley's proposal for a joint Committee of both Houses to consider whether persons, the value of whose property is clearly increased by an improvement, can be required to contribute to its cost, and if so, under what conditions Parliament should sanction the levying of such contributions in Local Acts or Provisional Orders. The proposal, though it was carried in the Lords, came to nothing, because the House of Commons refused to join in such a Committee. Lord Hobhouse, separating himself from his party, voted for the proposal, because, as he explained afterwards, he thought that the inquiry by the Committee would dissipate a good many of the extraordinary misapprehensions which existed in the House of Lords.

The next year Lord Hobhouse wrote three articles in the *Contemporary Review* to defend the scheme of

the County Council from the criticisms of the Duke of Argyll, Lord Salisbury, Lord Onslow, and others in the House of Lords, not, as he said, 'to stir the ashes of a dead controversy, but to elucidate a living one,' for the County Council had launched for 1894 a similar measure to that which had been rejected in 1893. Lord Hobhouse entered an energetic protest against the ugly and uncouth term which the County Council had invented to describe their policy, but the policy itself found no more powerful defender. The subject had become involved in the general quarrel which had grown up between the County Council and the House of Lords, and nobody was better qualified than Lord Hobhouse, with his vigorous but composed manner of stating and answering a case, to disentangle the real issues from the alien controversies that obscured them. He defended the County Council scheme as a measure of which it was the intention and the effect to lay a charge on the value created by the improvement, and expressible in terms of rent or price obtainable at the time. If there had been no sale or letting since the improvement, the arbitrator must conjecture the increased value. But there was nothing novel or arbitrary in that arrangement, for it was what was done when a man increased his house at his own expense, and did not carry it into the market. The Duke of Argyll had argued that in cases where it was just to call for contributions for general improvements, the claims of the public were satisfied by increased rating. To this argument Lord Hobhouse made two replies. The increased rate went to the particular parish which levied the rate, not to the County Council which had borne the expense of the improvement. Secondly, it

did not satisfy the ground on which Betterment was claimed, namely, that the enhanced value had been created not by the landowner, but by his neighbours. 'If I spend my own money in improving my own property, I pay more rates. So does the man whose property has been improved by the public. The two are taxed equally in that respect by the parish. But for the advantage of having his property improved at the public expense, and not at his own, the second man is not taxed at all. To make him pay something for that advantage is the principle of Betterment.'

In April, 1894, Lord Morley moved for a Committee of the House of Lords, and his motion was accepted by Lord Rosebery on behalf of the Government. Lord Hobhouse and Lord Farrer were both put on the Committee, which ultimately contained fifteen members, including Lord Salisbury and Lord Onslow. The Committee reported in July, and the House of Lords agreed to Lord Halsbury's motion adopting the report. In this report the Committee recognized the general principle of Betterment, but laid it down that damage, as well as improvement, must be taken into account, and it gave the rate-payer, when assessment was increased, the option of calling on the local authority to purchase his property at the value it possessed before the improvement was made. Next year, for the first time, a Betterment clause passed the Lords. The Bill which contained the clause was the London County Council's Tower Bridge Southern Approach Bill, which had been rejected in the previous year. A Betterment clause has since been incorporated in Bills sanctioning seven London improvements, and Manchester and other municipalities have also benefited by the recognition

of the principle which Lord Hobhouse and his colleagues preached with such perseverance and success.

Lord Hobhouse had presided in 1891 at a meeting of the London Municipal Reform League, at which a resolution had been carried urging the creation of District Councils, to which women should be admissible, to take the place of Vestries, and gradually to acquire the control of local charities. He, therefore, took a special interest in the London Government Bill of 1899, which abolished Vestries and District Boards, and divided London into twenty-eight Metropolitan Boroughs, each with Mayor, Aldermen, and Councillors. His views are given in his letters to Lord Farrer.

15 Bruton St., W., 17. 3. '99.

In my judgement the chances for any measure of this kind to work well depend on the relation of areas to powers.

. . . The powers substantially accord with the scheme originally framed by John Lloyd, promulgated by the Mun. Ref. League once before the birth of the L. C. C., and recently agreed to in conference between L. C. C. and a number of Vestries. They are strictly local concerns, which may be handled by small local authorities without collision with their immediate neighbours or with Londoners at large. That being so, it seems to me not desirable to give very large areas of jurisdiction to bodies that are to exercise such powers. I should say of my own Vestry that it is not too small but rather too large, and that its business would be better done if its waist at Hyde Park Corner were cut in two. My main reasons are two.

First, the multitudinous local affairs which Vestries administer, and which it is not proposed to vary *in kind*, are likely to be better understood and attended to by near residents. I should say that the most responsible of them is assessment. I do not mean the most important for the

wants of daily life, such as lighting, paving, thoroughfares, and so forth, but that which requires most judgement and character. I believe it would be the best worked for each locality by persons in actual touch with it, always strengthened (or controlled it may be) by officers of the Exchequer and of the L. C. C. working with them. My conviction is that enlargement of area would in this matter not promote but impair efficiency, and *a fortiori* of other matters not of so much public interest.

My other reason is that elected representatives of large areas are so very prone to take part in general controversies. The London Vestries did so after 'Hobhouse's Act'<sup>1</sup> placed them on an elective basis, not without advantage, by giving a (very imperfect) voice to Londoners when there was no Municipal Government of London, and its Parliamentary Boroughs were hopelessly unwieldy. The same spirit has again been stimulated by the recent enlargement of the electoral basis, but is not a desirable thing for the Vestrymen or for their constituents. At present some portion of my energies is consumed in persuading my fellow Vestrymen not to waste their time in discussing large social and political problems (usually propounded to us by our ambitious neighbours of St. Margaret and St. John, calling themselves 'Westminster') which affect the whole kingdom, and for the solution of which our voice is of no more avail than the voice of the bawling newsboy. My belief is that Mayor, &c., of 'Westminster' would have souls above the petty local affairs, and in default of employment on the great London affairs, which they are not to have, will either stay away or discuss national affairs. As for the more pompous titles, I think that if they attract people, which is their excuse, it will be the sort of people we do not want, who come not for the work but to get a step in rank above their neighbours; and they also are the people who will not be content with the homely duties allotted to the Boroughs, but will always be com-

<sup>1</sup> This Act was passed in 1831, on the motion of Sir J. C. Hobhouse, then M.P. for Westminster.



plaining that their power is not equal to their dignity. If there really is substance in the suggestion that empty titles will attract serious working men, why is the L. C. C. left with a Chairman, when the lesser London bodies are to have Mayors?

The comparisons which are made (*ad nauseam*) between London parishes and the Provincial Boroughs are not to the point. It is not proposed to make the London Boroughs integers of London Government. At least not ostensibly proposed, and not by this Bill. That it is the idea favoured by those who have framed this Bill we know from previous historical passages. But when nakedly propounded as 'tenification,' the Londoners would not swallow it, and it is not now ostensibly proposed. What is proposed is to create elective representatives of great masses of population and wealth, to give them pompous titles, and then set them to perform the humble duties of a subordinate part of a much greater urban community. The Corporation of (say) Manchester has the whole government of a City to administer: its powers, duties, and dignity are all in proportion, and it is (I believe) content. Now make 'Westminster' a City. The facts will not admit of its being independent. It must remain a subordinate part of a much greater City. I say its whole position ought to be regulated accordingly.

... The proposals for other big Boroughs, up to 400,000 population, fall under the same considerations. I don't like the exaltation, though only empty titles, of the existing big Parishes, but they are there, with established working systems; and there is apparently no sufficient political force to readjust their areas by way of diminution. That is no reason why we should create another big district, or perhaps five or six others. I utterly disbelieve that seventy-two men, call them by which name you please, can pay personal attention to the numerous details which require attention in so large an area. The more high-sounding titles you give them, the less likely they are to be men who will condescend to plodding work. I am confident that the

administration will fall into the hands of paid officials, to a great extent uncontrolled. I am equally confident that the jurisdiction of the L. C. C. will be at once assailed with increased force. And I believe that its legitimate and beneficial authority will be impaired, as surely as I believe that the framers of this Bill intend it to be.

In 1900, after the passing of the London Government Bill, the old Vestry of St. George's, Hanover Square, came to an end, and Lord Hobhouse, who had been an active and useful member of that Vestry for more than twenty years, finally retired, at the age of eighty, from all active part in the government of London.

## CHAPTER VI

### JUDICIAL WORK

ON his return from India in 1878 Sir Arthur Hobhouse was appointed by the Conservative Government to act as arbitrator in a long series of difficult and troublesome questions, raised by the judgement of the Master of the Rolls in 1874 on the subject of the Enclosures in Epping Forest. Mr. Edward North Buxton has been kind enough to supply an account of the arbitrator's work.

‘The work of Sir Arthur Hobhouse in settling the complicated questions of ownership in Epping Forest is gratefully remembered by the survivors of the actors in that drama. After the famous judgement of the Master of the Rolls in 1874, by which the wholesale enclosures of land in Epping Forest by the Lords of the Manor were conclusively shown to be illegal, it became necessary for the Corporation of London, the plaintiff against the Lords in that case, and for Parliament to consider how far that judgement should be literally enforced against the “grantees,” i. e. those who had purchased lands from the Lords, and in most cases erected houses on them, or cultivated the land, in good faith and with an honest belief in their title. It was at once seen that the removal of these buildings and the restoration of the land to its forestal condition would be a harsh measure. Each case, and there were several hundreds, had to be considered broadly on its

merits. For this, not merely a first-rate lawyer, but one versed in the equity of the question, and familiar with every phase of the long contest, was needed. On the one hand, the powerful party, which had for years fought for the popular right amid great discouragement, but who had emerged triumphantly, naturally demanded the fruition of their victory. Some of these desired to bring the question to a violent conclusion, and in some cases impatient or enthusiastic people commenced to pull down the fences, thus forcing the hand of the authorities and adding greatly to the difficulties of those who desired an equitable settlement.

‘On the other side, the grantees of the Lords of the Manor were sore and incensed at what they considered the cruelty of depriving them of the land for which they had paid, and the capital invested in buildings or cultivation. To many, this represented all they possessed, and feeling naturally ran high, even long-standing friendships being in jeopardy.

‘It was of good augury when, under the Epping Forest Act, 1878, Sir A. Hobhouse was appointed to this task. His mastery of detail, combined with breadth of view, peculiarly fitted him for it, and were a guarantee that all persons interested might possess their souls in patience. To the best of my recollection the consideration of these cases took about two years, the arbitrator patiently working through them, hearing every equitable claim which could be urged. In order personally to inspect the land affected, he took a house near the Forest for several weeks in the summer.

‘Ultimately, while the whole of the land remaining in the hands of the Lords of the Manor and some of that in the hands of the grantees was restored to the

Forest, the owner of every dwelling erected on illegally enclosed land was allowed to retain around it such a proportion as the arbitrator deemed to be necessary to it as "curtilage." For that which he was required to throw open he received compensation, while for that which he retained he was required to pay a further sum for a Parliamentary title, in itself no small advantage.

'It would be too much to say that in the final result every one was satisfied. Too many cherished hopes were disappointed, but no word was ever uttered impugning any judgement of his, and all embittered feelings were presently laid to rest by his masterly reports which disarmed criticism.

'Other subsidiary questions were referred to him, such as the claims for lopping rights, which were to be henceforth abolished. One of these may be cited:— In the parish of Loughton the whole of the householders had a right to cut fuel within the Manor. The privilege was much prized, but had to be determined in the interests of the Forest as a whole. The existing householders had not alone to be considered, but those who might come afterwards. Sir Arthur valued the Loughton right at £7,000, of which £1,000 was allotted to the existing householders, and the remainder devoted to the erection and maintenance of a public hall and library. Thus Hobhouse, the declared enemy of "the dead hand," was instrumental in endowing the parish for all time with a possession, as to the beneficial effects of which there has been so far no difference of opinion.

'The contemporaries of these doings are disappearing, but it should never be forgotten by those who come



after that we owed the settlement of these complex questions to the patience and insight of Lord Hobhouse.'

Before this arbitration had been concluded Lord Hobhouse was made a member of the Judicial Committee of the Privy Council, a body on which he served for twenty years. To Mr. Hope, the Registrar of the Judicial Committee of the Privy Council, the editors of this volume are indebted for a very clear and interesting account of the work of this Committee.

'By Acts of 1832 and 1833, a Judicial Committee of the Privy Council was appointed<sup>1</sup> to hear all appeals and complaints in the nature of appeals whatever which could be brought by Statute or Custom before the King in Council from any Court, Judge, or Judicial Officer. By section 4 of this Act, the King was given power to refer to the Judicial Committee any such other matters whatsoever as His Majesty should think fit. The Act provided that the Judicial Committee should consist of all Privy Councillors holding or having held the office of Lord President or Lord Chancellor or any of the high judicial offices enumerated in the Act. That list of high judicial offices has since been extended by the

<sup>1</sup> The exercise of judicial functions by the Privy Council was no novelty. 'It has always been a rule of our constitution,' wrote Sir Thomas Raleigh, then Registrar of the Privy Council, 'that the subject who failed to obtain justice in the ordinary Courts might go in the last resort to the King himself. Petitions for the correction of errors in the proceedings of the Courts were presented to the King in Parliament or to the King in Council. The King's English subjects preferred to go to the King in Parliament, and in course of time the House of Lords was recognized as the Court of final appeal for England, and for the United Kingdom generally. The King's subjects beyond seas found that their petitions were more speedily heard if addressed to the King in Council; the Council Board thus became the tribunal of final appeal for the Colonies and India.' *Encyclopaedia of the Laws of England*, vol. 10, p. 452, under 'Privy Council.' It would seem that down to 1833 appeals to the Sovereign in Council were few. They were heard usually in vacation, when Judges, being members of the Privy Council, were free to attend by Committees specially appointed.

Appellate Jurisdiction Acts, 1876 and 1887. By the Act of 1833 the King was empowered by his Sign Manual to appoint "any two other persons being Privy Councillors" to be members of the Judicial Committee.

'In March, 1881, Lord Hobhouse was sworn a Privy Councillor and appointed a member of the Judicial Committee under this last power, in succession to Sir Joseph Napier, an Ex-Lord Chancellor of Ireland.

'The extensive nature of the jurisdiction of the Judicial Committee will be appreciated when it is remembered that not only do they hear all appeals to the King in Council from India, the Colonies, the Channel Islands, and the Isle of Man, but also appeals in Ecclesiastical Cases, whether in matters of ritual or under the Clergy Discipline Acts, in Maritime and Prize Causes, from Schemes framed under the Endowed Schools Acts, and in questions arising under the Unions Benefits Act of 1860. Applications for the extension of Letters Patent and for the grant of Compulsory Licences under such Letters also come before the Committee. Moreover, from time to time matters are specially referred to them under the general power reserved to the Sovereign as above stated by section 4 of the Act of 1833.

'Thus in one and the same Sittings there may, and often do, come before the Committee cases from India, on important matters involving decisions in Mohammedan or Hindu Law; from Ceylon or South Africa, where Roman-Dutch Law prevails; from Malta, the Channel Islands, and the Isle of Man, each with their special laws; from Canada, dealing with intricate points under the British North America Act, 1867, as

to the respective powers of the Dominion and Provincial Legislatures ; or from the Province of Quebec, raising points of French Law ; Patent Cases ; and perhaps an appeal in a Maritime or Ecclesiastical Cause, or from a Consular Court or other Court established in a country without the Dominions of the Crown, under the Foreign Jurisdiction Act, 1890.

‘Matters heard by the Judicial Committee need not necessarily involve directly, or even indirectly, any pecuniary value, e.g. it is not uncommon for an Advocate in one of the Colonies who thinks that he has been improperly prohibited or suspended from practising to appeal to the King in Council, and such appeals are heard by the Judicial Committee. So, too, unless the Royal Prerogative has been restricted by express enactment, an appeal lies in criminal cases.

‘This list does not pretend to be exhaustive, but it will probably assist in forming an estimate of the difficult and various problems of law to which Lord Hobhouse applied himself so assiduously for twenty years ; and a reference to the Law Reports will show how large a share he took in preparing the Judgements to give effect to the decisions arrived at by the Board.

‘He was ever ready with his assistance to the Staff of the Office when any question arose in the carrying out of the directions contained in the Judgements, or in matters of practice, and his demeanour to Counsel was equally courteous.

‘Mr. John D. Mayne, who had a commanding practice before the Privy Council in Indian Appeals, in the Preface to the sixth edition (1900) of his *Treatise on Hindu Law and Usage*, says, “Both the Privy Council and the Indian Courts have been rich in decisions of

unusual importance, particularly in regard to the law of adoption and wills." It may be safely said that to these decisions Lord Hobhouse largely contributed.

'Immense labour and care were bestowed on the preparation of his Judgements, both as to matter and expression, and they were delivered with a dignified emphasis. Of one dealing with very difficult matters relating to adoption, Mr. Mayne, in the same work, p. 185, says "that the Judgement certainly avoided none, and dealt with all the difficulties of the case"—a remark that would probably be equally applicable to all of the many Judgements prepared by the same learned Judge.

'His earliest colleagues, who generally attended the Board, were Sir Barnes Peacock, Sir Montague Smith, Sir Robert Collier (afterwards Lord Monkswell), and Sir Richard Couch. On occasions also in those days Lords Selborne, Blackburn, Watson, Bramwell, and FitzGerald sat with him. In later times he was further associated with the present Lord Chancellor (Lord Halsbury), Lord Herschell, Lord Shand, Lord Morris, Lord Macnaghten, Lord James of Hereford, Lord Ashbourne, Lord Davey, Lord Lindley, Lord Robertson, Lord Hannen, Sir Francis Jeune, Sir Edward Fry, and Sir Ford North; also with Sir Henry Strong, late Chief Justice of Canada, Sir Henry de Villiers, Chief Justice of the Cape of Good Hope, and Sir Samuel Way, Chief Justice of South Australia, appointed members of the Judicial Committee under the Judicial Committee Amendment Act, 1895, passed during Lord Rosebery's administration.

'Lord Hobhouse sat for the first time in the Privy Council on March 8, 1881, and for the last on July 24,

1901. He delivered Judgements in some 120 Indian Appeals, and 80 in Appeals other than Indian.

‘Apart from decisions on appeals dealing with every branch of law in India, the Law Reports record Judgements by him in appeals from wellnigh every other possession of His Majesty beyond the seas, ranging from the great self-governing Colonies in Australasia and Canada to small islands such as Cyprus and Fiji, and involving the consideration of very diverse subjects, and of English, Roman-Dutch, French, and other systems of law. He delivered Judgements further in Petitions for the extension of Letters Patent, in such Maritime Cases as are subjects of Appeal to His Majesty in Council; and in appeals under the Endowed Schools Acts. He assisted, moreover, at the hearing, under the last Acts, of the important appeal of Christ’s Hospital (L. R. 15 (1890) A. C. 172), of the appeal of *Read v. The Bishop of London* (L. R. (1892) A. C. 644), where the vexed questions of the Mixed Chalice, Lighted Candles, and the Eastward position came up for determination; and of a case, *Sirdar Gurdyahl Singh v. Rajah of Faridkote* (L. R. (1894) A. C. 670), involving important points of international law, in which Lord Selborne gave the Judgement of the Board.

‘He was also one of the Committee summoned to report in the matter of a Special Reference from the Bahama Islands heard, in 1892, by eleven members of the Committee, including the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, Lord Ashbourne, and Lord Justice Bowen, in addition to the members usually attending the Board, when points in connexion with committal by a Judge for contempt of Court, and the power of the Crown, acting through the



Governor, to remit the sentence were fully discussed (see L. R. (1893) A. C. 138).'

Another important appreciation is supplied by Lord Davey.

Throughout Lord Hobhouse's long career I have known him as friend, as counsel, and latterly as colleague. Apart from his knowledge of law, which was of course increased by experience, Lord Hobhouse in my opinion possessed the highest judicial qualities. He was extraordinarily industrious, patient, and attentive to the arguments of Counsel, whom he always treated with the utmost courtesy and even forbearance. One quality which Lord Hobhouse possessed in an eminent degree was tenacity. I have known even Sir George Jessel moved by argument to modify or even revise his first impression of a case, but when Lord Hobhouse had once formed and expressed an opinion I have never known him yield it, either in the course of the argument or in consultation with his colleagues, on the judgement to be given. I believe this arose from his habit of not forming an opinion or expressing his views until he considered he had all the material for doing so, as well as from the natural bent of his mind to hold fast by an opinion once formed. The Judicial Committee is supposed to 'know' whatever law is administered by the Courts in every part of the British Empire, which comprises almost every civilized system of jurisprudence. English law, of course, Lord Hobhouse knew from his early training at the Bar. Indian law he had commenced the study of in India, and I think he made Indian cases his special care in the Judicial Committee. At any rate it was in the consideration of these cases, which sometimes involve points of great difficulty, that his assistance, always valued, was most appreciated. But he seemed equally at home with a case depending on French or Roman-Dutch law, or the intricacies of a Maltese family settlement, for the construction of which one had to look to the minute and highly technical rules laid down by

the Roman Curia. His judgements usually contained an elaborate analysis of the evidence to be considered, and where it was a question of law, a full and clear discussion of the legal principle involved. Lord Hobhouse never allowed any point in a case, which he considered had a bearing on the decision, to pass unnoticed. I call to mind two judgements of his in Indian law, settling important points in the Hindu law of succession and the law relating to adoption. Lord Hobhouse seldom sat in the House of Lords, and his increasing deafness made it difficult for him to do so. I can only recall two cases in which he took part—the Russell divorce case, and the Kempton Park case. In each of these cases he was in a minority. Lord Hobhouse had not the subtle mind of Selborne or Bowen, or the power of luminous compression of legal principle which distinguished Cairns. But he was a careful, good, reliable Judge, whose opinion everybody respected, and a great support to the Tribunal of which he was so long a member and regular attendant. He served the country (without pecuniary reward, it must be noted) till he was compelled by age and infirmities to retire, and his colleagues were painfully sensible of their loss.

It would be out of place to give a survey of all the cases that came before Lord Hobhouse, but some description of a few of his most important judgements may perhaps be of interest.

One appeal from South Africa raised the question of the status of the Church of South Africa. The Bishop of Grahamstown had claimed the Church of St. George in Grahamstown as his cathedral, and asserted the right to preach there whenever he thought fit. The officiating Minister of the church was willing to allow the Bishop to preach whenever he thought fit, as a matter of courtesy, but argued that, as Dean, he himself had the control of the arrangements. On April 17, 1879, the Bishop

came to the church to preach, after formally admonishing the Minister not to hinder him, but the latter anticipated the time of the delivery of the sermon, and preached himself, whereupon the Bishop protested and left the church—a second and more decorous edition of the famous scene at the Council of Basel, when the Archbishop of Taranto managed to anticipate the Cardinal of Arles and celebrate mass. For this conduct the Minister was found guilty of contumacious disobedience by the Diocesan Court. The Supreme Court of Cape Colony, however, absolved the Minister on the ground mainly that the Church of St. George had been devoted to ecclesiastical purposes in connexion with the Church of England, whereas the Church of South Africa was not a part of the Church of England. The Bishop appealed from this decision, but it was upheld by Lord Hobhouse and his colleagues, Sir Barnes Peacock, Sir Robert Collier, Sir James Hannen, and Sir Richard Couch. The Judicial Committee argued that the sole question was the use of the Church of St. George. The defendant, by his action in taking part in the Synods that established the Church of South Africa on a voluntary basis, and in the election of the Bishop, had come under personal contracts which justified the Bishop's contention, but he had no power to contract away the rights of other people, and the Church of St. George was governed by an Ordinance of 1839, and the property was settled to uses in connexion with the Church of England. The Church of South Africa, on the other hand, was not in connexion with the Church of England as by law established, because one of the articles of its constitution, drawn up at the Synod of 1870, declared that the Church was not bound by the de-

cisions of tribunals other than its own ecclesiastical tribunals. It followed that the same belief might be orthodox in England, and heresy in South Africa. The Church of South Africa, having chosen independence, could not claim control of endowments that were settled for uses in connexion with the Church of England.

A case of great constitutional importance was heard before Lord Hobhouse, Lord Macnaghten, Sir Barnes Peacock, Sir Richard Baggallay, and Sir Richard Couch in July, 1887. Three Canadian banks and a Canadian insurance company had appealed against a judgement of the Court of Queen's Bench, which had decided that the Quebec Legislature was acting within its powers in passing an Act in 1882 imposing certain direct taxes on certain commercial corporations. The banks had won their case before the Supreme Court in Canada, which had decided that the tax was an indirect one, that it was not imposed within the limits of a province, that the Dominion Parliament alone had the power to regulate banks, that the Provincial Legislature could tax only that which existed by their authority or was introduced by their permission, and that if the power to tax such banks existed they might be crushed out by it, and so the power of Parliament to create them might be nullified. The case really turned on the relation of different sections of the Federation Act. That Act was passed in 1867, and it distributed legislative powers between the Parliament of the Dominion, and the Legislature of the Provinces. It assigned to the Provincial Legislatures 'direct taxation within the province in order to the raising of a revenue for provincial purposes,' while enumerating

among the powers of Parliament 'the raising of money by any mode or system of taxation, and the incorporation of banks.' The Judicial Committee decided against the banks, on the ground that the tax was a direct tax, and that though Parliament had the power of incorporating banks and regulating trade and commerce, that power was not interfered with by the power of the Provincial Legislature to make banks contribute to the public objects of the provinces where they carry on business. To the argument that the Legislature might lay on taxes so heavy as to crush a bank out of existence and to nullify the power of Parliament to erect banks, the Committee replied that when the Imperial Parliament conferred wide powers of local self-government on great countries such as Quebec, it could not have meant to limit these powers on the speculation that they would be used in an injurious manner. There were obvious reasons for confining their power to direct taxes and licences, because the power of indirect taxation would be felt all over the Dominion. To place a limit on the power because it might be used unwisely would lead to insuperable difficulties in the construction of the Federation Act.

In delivering judgement on a case that came from Canada, in which a drunken father claimed the custody of his children, Lord Hobhouse made some important reflections on the relation of law to public opinion.

Their Lordships have been very much pressed, as the Courts below were, with broad judicial statements of the father's legal power over his children, and of the amount of misconduct which it requires to induce the Court of Chancery to interfere with him. Their Lordships are disposed to think that the facts of this case are such that, even



if it had occurred early in this century, the Court would have been induced to give the custody of the children to their mother. But they remarked during the argument, and wish to remark again, that no one has stated or can state in other than elastic terms, the grounds on which the Court should think fit to interfere. There must be a sufficient amount of peril to the welfare of the children. But that sufficient amount can hardly be fixed for one age by the standard of another. Drunkenness, for instance, is looked upon as a much graver social offence now than was the case two or three generations ago, and its effect upon the welfare of a family must be judged of accordingly. For many years the tendency of legislative action and of judicial decision, as well as of general opinion, has been to give to married women a higher status both as regards property and person; and, in family questions, to bring the marital duty of the husband and the welfare of the children into greater prominence; in both respects diminishing the powers accorded to the husband and the father. This change must necessarily affect the views of Judges upon the welfare of families when they are called on to exercise their discretion; or, what is not a very different thing, to decide what is sufficient cause for taking children out of the custody of the father. . . . A judgement on such a question always was and must be in its essence a discretionary judgement, viz. one guided by views on social and domestic matters absolutely incapable of being brought under legal rules and definitions. Doubtless it is exercised within stricter limits and under greater pressure than in cases when the Legislature has in express terms given a discretion. Their Lordships are now acting under that pressure. But the welfare of a family is powerfully affected by the opinion of relatives, friends, and neighbours, which no Judge has a right to disregard; and that opinion will be the opinion of the day, not of a bygone day. And whatever might have been the view taken prior to the year 1839, it is quite impossible at the present day to say that, under

such circumstances as are disclosed by the present case, it would not be seriously prejudicial to the children to take any of them away from their mother in order to place them in the custody of their father.

Perhaps the most important judgement delivered by Lord Hobhouse was that which decided in 1899 that under Hindu Law an adoption can validly be made of an only son of his father. The question had been the subject of many a contradictory judicial decision during an entire century, and of conflicting interpretations of the sacred Hindu books. These Hindu books made it clear that a man discharged his debt to his ancestors as soon as he had a male son. 'By a son a man obtains victory over all people, by a son's son he attains immortality, then by the son of that son he reaches the region of Brahma.' 'Since the son delivers the father from the region called Put, he was therefore called Putva by Brahma himself.' These extracts are from the Laws of Manu, the most revered of all the codes. Vasishta, whose name is next to that of Manu in point of antiquity and authority, may be said to be the centre of the controversy. In his writings he said that the father and the mother have power to give, to sell, and to abandon their son. 'But let him not give or receive in adoption an only son. For he must remain to continue the line of ancestors.' Another sage, Saunaka, puts it, 'By no man, having an only son, is the gift of a son to be ever made,' and another, Yajnavalkya, 'For an only son must not be given, for Vasishta ordains "Let no man give or accept an only son."' These writings all belong to the Smritis, which are held by orthodox Hindus to have emanated from the Deity. A seventeenth-century commentator had written about this: 'He who has one

son only, is “eka-putra,” or one having an only son; by such a one the gift of that son must not be made, for a text of Vasishtha declares “An only son let no man give,” &c.’

One of the many judgements which had been given on the subject (Mr. Justice Mitter, 1868) had declared that adoptions originated in motives of religion, and not in the ordinary human desire for perpetuation of family properties and names. ‘It is clear therefore that the subject of adoption is inseparable from the Hindu religion itself, and all distinction between religious and legal injunctions must be inapplicable to it.’ This dictum was described by Lord Hobhouse and his colleagues as begging the essential question. Have the precepts in the sacred writings a legal or only a religious bearing? Sir William Macnaghten had said, ‘It by no means follows that because an act has been prohibited it should therefore be considered as illegal. The distinction between the *vinculum iuris* and the *vinculum pudoris* is not always discernible.’ Lord Hobhouse reviewed the passages and the various judgements, and asked why, if a man discharges his debt to his progenitors as soon as a male son is born to him, that service is obliterated if he gives his son away in adoption. Vasishtha does not rest his injunction on spiritual benefit at all, but on the importance of continuing the line of his ancestors, a common human motive for desiring legitimate issue. The issues were summarized in Lord Hobhouse’s words :—

Old books, looked on as divine, give to the father plenary powers over his sons. The same books discountenance the giving of an only son in terms which may be construed as a positive command, making the gift void, or as a warning

pointing out the mischief of the act, but leaving individual men to do it at their peril. The books contain no express statement which kind of injunction is meant. The practice of such adoptions is frequent. Over some substantial portions of Hindu society it is established as a legal custom, whatever may be the general law. In other very large portions it is held to be part of the general Hindu law. Nowhere is it known to be followed by hatred or social penalties. Pausing there, the case is one in which, if the authoritative precepts are evenly balanced between the two constructions, the decision should be in favour of that which does not annul transactions acceptable to multitudes of families, and which allows individual freedom of choice.

The result was a decision in favour of allowing these adoptions. Whichever party had been successful, the decision was bound to cause some disturbance, but this decision involved the least.

Other Indian appeals had to do with attempts to introduce English estate tail into Hindu property, which the law would not allow, with the trusteeship of an idol, and with a curious dispute as to the ceremonial used in a mosque. In the last of these cases certain members of the congregation accused the ministers and officials of heresy, because they pronounced the word 'Amen' in a loud instead of a low voice, and adopted the performance of Rafadaim, the gesture of lifting the hands to the ears, at a particular point of the service.

In reference to one of these Indian ritual cases Lord Hobhouse wrote to his wife as follows :—

15 Bruton Street, W., *Feb.* 14, '89.

I am absorbed, and shall be for some days, in a very long and intricate case for Calcutta; the question being which of nine persons, all being incarnations of Vishnu, and all

worthy of worship as deities, is the chiefest, and the proper person to preside over a temple, and the worship of a painting which represents the deified Dowjee. He died as lately as 1826, and we have a replica, or copy, of his portrait. It is like all other Indian portraits, just like the man belonging to the ox-car which hangs on our wall. But, says one of the witnesses, you have only to look at it to see that it is God Almighty. I have been wondering whether our quarrels over candles and wine and water, and the raising of hands, seem to our Rajpoot neighbours as unreal and frivolous as their quarrels about the relative dignity of paintings, sticks, and stones seem to us.

Although Lord Hobhouse had been given his peerage in 1885 in order that he might take part in the judicial business of the House, it was found that a difficulty about a statutory qualification had been overlooked. Only peers who had been Judges of the High Courts of the United Kingdom could sit on Appeals in the House of Lords. In 1887 an Act was passed, placing the members of the Judicial Committee on the same footing as Judges for this purpose. By that time, however, Lord Hobhouse had got into a groove of work at the Judicial Committee, and, owing to the deaths of other members, was needed for Indian cases.

The result was that he sat on appeals in the House of Lords on three occasions. The first of these was the Kempton Park case.

This was an appeal to decide whether an enclosure adjacent to the Kempton Park racecourse, to which people were admitted at race meetings, on payment of a fee, was a 'place' within the meaning of the Act of 1853. The greater number of people who entered the enclosure came there to bet with professional bookmakers. The bookmakers were admitted



on the same terms as the general public, had no special rights in the enclosure, and acted independently of and in competition with each other. The appellant was a shareholder of the Kempton Park Company, who brought the action to have an authoritative decision on a question which had been differently determined in different courts. It was held that the enclosure was not a place kept or used for the purpose of betting with persons resorting thereto within the meaning of the Betting Act of 1853. Lord Hobhouse and Lord Davey dissented from the judgement of the majority. Lord Halsbury, who delivered judgement, held that the enclosure at Kempton Park did not come within the range of the disputed sections of the Act, because these sections did not affect to deal with the betting of people unconnected with the house betting *inter se*. The owner or occupier in this case had no interest in any bet, and the men who took the admission fee neither knew nor cared whether the men who paid the fee betted or not. Any one who had a field with a view of the boat-race, and let it for the day, might be certain that betting would go on, but did that make his field a common gaming-house? Lord Hobhouse, on the other hand, argued that if the Company's enclosure was a place used for the purpose of betting with persons who resorted to it, it was the thing prohibited, and was declared to be a common nuisance and contrary to law. In this case there was an enclosure of a quarter of an acre, where a number of persons, whose calling was to make bets with any one who came near them, habitually collected on race days; they numbered 200, each with his clerk, and the greater number of other persons using the

enclosure there went to bet with these bookmakers. The enclosure was thus a place for the regular and methodical practice of betting. He agreed that the Act was directed not against betting, but against bookmakers and those who made a business of betting. But the mode of warfare adopted against such persons was to strike at places where betting was concentrated into a focus. This place, in his view, was a concentrated focus of betting, as regular as the races themselves.

The second case was a matrimonial suit which has an historical importance, and though Lord Hobhouse was in a minority, the view that he defended on that occasion seems to have influenced decisions that have since been made in divorce cases. The question at issue was whether the cruelty which warrants a judicial separation of husband and wife must be physical cruelty. The wife had filed a petition for judicial separation a few months after her marriage, on the ground that her husband had been guilty of cruelty, and the petition had been dismissed. Three years later she filed a petition for the restitution of conjugal rights. The case was tried before Baron Pollock and a special jury, who found that the wife had been guilty of cruelty in bringing and repeating odious charges against her husband, of which he was not guilty. The result was that her petition was refused, and the husband was granted a judicial separation. The wife appealed from the decision, and the Court of Appeal allowed the appeal, but held that her conduct to her husband, in spreading false charges against him, disentitled her to the restitution of conjugal rights. The husband appealed from this decision, but in vain, the House of Lords affirming the judgement of the Court of Appeal

by five to four. The judges in the majority, who held that cruelty must be physical to warrant a judicial separation, were Lord Watson, Lord Herschell, Lord Macnaghten, Lord Davey, and Lord Shand. Lord Halsbury, Lord Hobhouse, Lord Ashbourne, and Lord Morris held that the husband was entitled to a judicial separation, because his wife had tormented him by persisting in an odious charge, for which there had been proved to be no foundation.

In 1901 Lord Hobhouse, who was now in his eighty-second year, felt that the increasing disabilities of age made it impossible for him to continue his work on the Judicial Committee. His announcement of this decision was received with genuine regret, as the following tributes to his judicial work testify.

Privy Council Office, *Nov. 17/01.*

MY LORD,—I have received with much regret the intelligence conveyed by your letter of the 13th that you desire to resign your appointment as a Member of the Judicial Committee, and I know that my regret will be shared by all my colleagues on the Council, and especially by those who have had the pleasure and advantage of being associated with you in the discharge of the arduous and responsible duties attaching to the exercise of the functions of the Judicial Committee.

I trust your Lordship will allow me to acknowledge also, on behalf of His Majesty, the great value of the services which you have been willing to continuously render to the Empire for over twenty years, and to assure you that you will carry into your retirement the gratitude and respect of His Majesty's subjects in all parts of his dominions.

I remain,

Yours obediently,

DEVONSHIRE.

House of Lords, *April 22, 1901.*

MY DEAR HOBHOUSE,—I am very conscious of the service you have rendered to the state by your faithful and constant attendance in the Judicial Committee, and I am sure all my brother judges, as well as I myself, have felt how valuable that service has been to us from your great learning and experience. May I ask you in pursuance of the willingness expressed in your letter to continue the service a little longer, and thereby increase the great obligations under which you have already laid your country.

Believe me always, my dear Hobhouse,

Very truly yours,

HALSBURY.

Goodrest, Reading, Berkshire, *Oct. 28.*

MY DEAR LORD HOBHOUSE,—I cannot help writing to say how much we shall all miss you at the Privy Council. It was not only your courtesy and candour, your judicial mind and great attainments, which rendered you invaluable. Beyond these you possessed, what I fear we shall never find again, that capacity for understanding the native mind, and of appreciating and sympathizing with native law, which no one can acquire who has not breathed the atmosphere of the East. That strange spectacle of races who are all antique with an antiquity to which the Christian era is something modern, and who are getting varnished over with a film of nineteenth-century civilization, which never gets below the surface, requires to be studied upon the spot. That we have made so few mistakes in dealing with them is, I suppose, due to the fact that we began by recognizing our ignorance, but that is not enough till it is replaced by knowledge. I do not think that any one on the Committee but yourself could have written that adoption judgement, which has satisfied every one and offended no one.

Wishing you many years of happiness and usefulness, I am, dear Lord Hobhouse,

Very sincerely yours,

JOHN D. MAYNE.

We may add here a record of the proceedings of the Judicial Committee of the Privy Council, at its first meeting after Lord Hobhouse's death, Wednesday, Dec. 7, 1904. There were present : the Lord Chancellor, Lord Macnaghten, Lord Robertson, Lord Lindley, Sir Ford North.

The Lord Chancellor said :—

Before we begin the business of the day it is impossible to pass over the fact without notice that a distinguished member of our body, and who remained for twenty years an active member of it, has been taken to his rest. Lord Hobhouse was able to win the affection and respect of all his colleagues by his unfailing courtesy, his desire beyond all other things to see justice done, and the diligent mode in which he made himself master of every subject which it was necessary to make himself master of in order to do justice between the parties. No one but those who acted with him as his colleagues could have known how kind, courteous, and considerate he was in dealing with opinions which differed from his own ; and although he had firm opinions of his own, which it was not easy to shake, he always respected and had regard to the opinions of others. His is a great loss, but he has done that which most of us would like to have said of us—he has firmly, courageously, most courteously and kindly done his duty, and his best epitaph will be found in the universal respect and affection in which he was regarded.

Mr. Haldane said :—

I do not know whether I may be permitted on behalf of the Bar here present and those who had the privilege of arguing before Lord Hobhouse to say how deeply we re-echo the sentiments which have fallen from your Lordship. It was with a sense of personal loss and personal grief that many of us received the news yesterday, and felt ourselves cut off from the personal relationship, the unfailing gentleness, and the appreciation with which Lord Hobhouse always received our advocacy.



## CHAPTER VII

### CRITICISM OF MODERN TENDENCIES

THE coming of old age hindered Lord Hobhouse from taking an active part in public life, and finally caused his retirement from judicial functions in 1901. But it in no way diminished his interest in public affairs, still less did it weaken the convictions which had been growing within him throughout the later half of his life as to the foundations of social well-being and the laws of political justice. The reactionary movement which so deeply affected thought in the last years of the century left him unmoved, or rather strengthened his attachment to those principles which he had come to recognize as the basis of all that is best in modern public life. Every step in the backward direction appeared to him only to illustrate more clearly by contrast the value of 'the great constructive work of the early Victorian statesmen.' His Liberalism, therefore, only grew stronger and deeper in proportion as that of many others became feeble and faint. The situation was indeed one in which his peculiar qualities eminently fitted him to play a man's part, and though his immediate influence was doubtless confined to a limited circle, yet within that circle his age, his long experience, his legal knowledge, his wide acquaintance with affairs, and the incisive judgement of men and things flowing from that knowledge and experience, made him

a tower of strength to those who were fighting in what was for a long time a forlorn hope.

The part which he was called upon to play was one from which many a man of his years, however deep his convictions, might well have excused himself on the score of age. It raised personal animosities, it created a bitterness of feeling, which, at no time pleasant to endure, is perhaps least so when life is drawing to a close, and the faithful servant desires only to feel that the hard work of the day is done. To withstand one's countrymen to the face because they are wrong is the hardest duty that can fall to the lot of any public man, yet there are occasions when it is the first and most sacred duty of every patriotic citizen, and such an occasion, in Lord Hobhouse's view, was presented by the outbreak of the war in South Africa. In a speech at a private meeting held in his house shortly after the outbreak of the war, he lays down very clearly the principles which should guide those who wish good to their country, when it has become involved in a quarrel in which they cannot believe it to be in the right.

There is no class of disputes in which it is more essential to keep the judgement undisturbed by passion than international ones; if it were only because there is no common superior to step in and decide them. And the difficulty of doing it is much increased by the fact that large numbers of people think it *unpatriotic* to decide, or at least to say, that their own country is wrong in a dispute with another. That is mere confusion of thought. Patriotism has nothing to do with that matter, being consistent with either view. Patriotism is a virtue which leads a man to sacrifice himself for the good of his country. There is no patriotism in flattering one's own countrymen or in assuring them that

they are right in what they are doing. That is merely swimming with the stream, one of the most alluring forms of indolence. A man is not a patriot because he desires that the community to which he belongs shall be aggrandized at the expense of other communities to which he does not belong. When a man desires that he or his family shall be enriched at the expense of others, we do not call him philanthropic; nay, if his desire leads him to be unfair, we call him selfish. It is only a change of degree, and not of kind, in the feeling, when the desire is extended to a man's colleagues, his sect, his party, or his nation. The inherent selfishness of desiring the success of a cause, because it is his own and not because it is right, is less apparent and indeed actually less in amount when its range is wider than when it is narrower. That is all.

'My country, right or wrong' is a cry which one has heard called of late years a patriotic one. It is just as patriotic as 'Myself, right or wrong.' It is essentially selfish, and if generally acted on would render any settlement impossible except by war, when once those who speak for a nation have committed it to explicit demands. A man who will take pains to find out where lies the right and the wrong, or it may be the wise and the unwise, course; the man who, being convinced that the existing rulers of his country are wrong or unwise, has the courage to stand up and say so; who confronts rulers, and penalties, legal or social, and frowns, and sneers, and howling multitudes; that man is the patriot, is he who sacrifices himself for his country's good. And among our roll of patriots by general consent such men are to be found.

The principle which he laid down for his own guidance in such matters was a simple one. He held that no fundamental distinction can be drawn between the obligations of nations and those of individuals, that the penalties of transgression were as certain in the one case as in the other, that accordingly he who encour-

aged and even he who failed to dissuade his fellow countrymen from embarking on and persisting in an iniquitous course failed in his duty as a citizen and a patriot, and finally that this conception of international obligation and patriotic duty was no novelty, but accorded with the best tradition of the greatest English statesmen.

TO AN AMERICAN.

*March 6, 1901.*

I have been flattered by the gift of your book on annexation. My powers of reading are very much impaired, and I have not yet had time to read it through. But I hope to do so before long, and glancing at parts of it, I think I can see that you hold up moral standards for our guidance in national conduct. That is refreshing to an old man who, just on the point of quitting the world, sees all around him a passionate reflux into barbarism, and hears the arguments of Sennacherib and Rabshakeh substituted for those of Chatham and Burke and Canning and Gladstone. All my life I have insisted, with general acceptance as one fancied, that the code of morals and justice is the same between nations as between individuals, with the addition that the nation which never dies is even more certain to reap the fruits of conduct, whether bitter or sweet, than the individual who may die before the fruits ripen. Now in our war controversy, which in many respects resembles yours, these principles are openly and generally derided, or passed over as not worth mentioning. I have hardly heard the words right, wrong, justice, injustice, uttered; British interests are the true standard of conduct, with the inevitable result that the very lowest views of what is our interest prevail. The old barbarous ideals have come up to the top again: that heroism consists in fighting; national welfare in aggrandizement; patriotism in declaring that your countrymen ought to win, right or wrong; that what

we want is more territory subjugated, more soldiers, more glorious victories, more certainty that others shall not dispute our will, and so on through the whole conqueror's creed. I do not doubt that the small voice of justice and truth will be heard again, though I shall not live to witness it; I hope you may; yet in the meantime vast mischief will have been done, and probably there will be no return to wiser courses till we have undergone severe suffering. For your country it seems yet possible that the worshippers of empire may be resisted by those of reason and justice. I trust the result may be so, and welcome every effort that I see made to help it.

It was with the deepest regret that he witnessed the defection of a large portion of the Liberal Party from its old principles in relation to these matters.

TO MR. A. G. SYMONDS.

Charlton, Portbury, Bristol, *Sept.* 30, 1900.

... I think I have before stated to you my inability to join in electoral operations merely because they profess to be on behalf of 'Liberals'; seeing that many who call themselves Liberals (I fear the great majority) are merely competing with the Tories which shall make the most show in doing the work of the Primrose, or the Army and Navy, Leagues. There are some brilliant exceptions (e.g. John Burns, Morley, Harcourt, and, we may hope, Campbell-Bannerman), alas, too few!

Notwithstanding my great admiration of Lord Rosebery's brilliancy, industry, and administrative ability, I have had misgivings ever since he started his Imperial Federation, now some ten years ago; and for the last four or five years I have been convinced that the Liberal Party will do nothing as long as they try to conciliate men whose ideals of national welfare and greatness are directly antagonistic to Liberal ideals, at least, as I have always understood them.

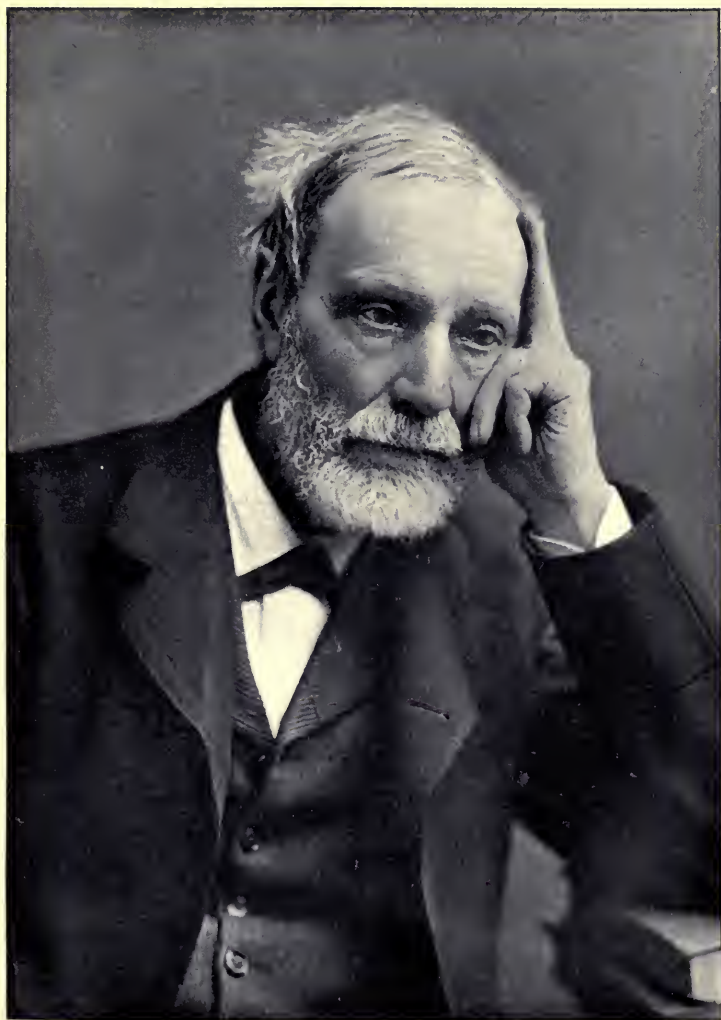


It is no trifle to break with men who have occupied the position of leaders and are of great ability and influence. Their absence leaves the party very weak. But their presence makes it still weaker; produces indeed complete paralysis, and must continue to do so when on every question of public importance the apparent leader never speaks without being contradicted by his apparent followers, or takes a step without being thwarted by them.

TO SIR CHARLES HOBHOUSE.

April 14, 1902.

As regards politics, I agree with you in deprecating prefixes or suffixes to the term 'Liberal,' but I sadly fear that the differences which they indicate go a great deal deeper than hair-splitting or even than personal rivalries. I think they are the outcome of a complete substitution of a new ideal of national life for the old one; the new one (for Liberals) being that the highest welfare of a nation consists not in preserving freedom of thought and action to its units and letting all men work according to their gifts, but in conquest and in military equipments, and in the necessary organizations for crushing all minds into one iron mould; 'thinking in communities' as the spokesman of the Social Democratic Federation puts it, or 'thinking in empires' after the fashion of Mr. Cecil Rhodes. '*Imperium et libertas*' was the fantastic quip of a fantastic politician whom the irony of fate induced the magnates of England to put at their head. '*Imperium aut libertas*' fits the case better; for the two are contradictory to one another. It is obvious that the military habit necessary for a conquering nation must crush individual freedom. And where is the instance in history of a people who set themselves to subjugate their neighbours and have remained free themselves? . . . Our own value for liberty has visibly declined during the last twenty years, since Primrose Leagues, and Army and Navy Leagues, and Unionists with the Union Jacks, and the great money-dealing interests that profit by war have systematic-



*Photo. by Russell & Sons.*

LORD HOBHOUSE, ÆT. 83.



ally preached the doctrine of Empire; and since the daily press has, by purchase mainly, passed into the same camp, and with it the formal and professed organizations for maintaining Christian precepts, have, three-fourths of them, made themselves the mouthpieces of the most powerful voices. I fear that we have chosen *Imperium* and rejected *Libertas*. We are fast becoming a military empire; conscription stares us in the face; we have thrown away the immunity from great armies which our insular position has given.

*April 15, 1902.*

The above was written yesterday, and then came an interruption. To-day we know that the reactionaries against free trade have had their measure of success, and that our war of conquest is to be paid for mainly by our posterity,—*vogue la galère*.

TO MR. A. G. SYMONDS.

15 Bruton Street, W., *March 17, 1902.*

I have just been sending a contribution to the 'League of Liberals against Aggression and Militarism,' a society with an oppressively long title; but nowadays it seems that very nice distinctions are necessary, seeing that there are as many subdivisions of men called Liberals as there are of Methodists, or more. I do not know whether you are actively engaged with this particular body, but presume that you are in sympathy with it. Just twenty years earlier Herbert Spencer and others, who saw deep into the main currents of thought, tried to form a similar organization, and a meeting was convened at this house. But it all came to nothing. Nearly all the Liberals were supine, saying, and I suppose thinking, as Sir William Harcourt openly boasted, that the election of 1880 had finally crushed the Jingo.

He recognized that something more than a party question was involved in the controversy before the

nation. A profound change had affected the national temper, and the only hope of permanent and genuine improvement lay in the return to the better ideals of an earlier day.

TO CANON BARNETT.

15 Bruton Street, W., *December 17, 1900.*

. . . The only hope that I now have of our country's recovery to sanity lies in education ; by which I mean, not only books and lectures, which may be very effective, nor winning of marks at schools by spelling and such exploits as are within the purview of inspectors, which are better than nothing ; but the gradual action of the more thoughtful and refined minds on those which are less so, such as you are trying to achieve by your residence at Toynbee, in contact with some of the lower ranks of London society. It is a slow and laborious process, and must sometimes be very trying to your steadfastness. But we, or rather those of us who are young enough to be active, have nothing less before us than to build up again the sense of right and justice in political matters which the bulk of the nation has lost, and indeed the very existence of which is openly denied and scoffed at. I hope you will live to contaminate many minds with the foolish and exploited notions of our youth, and our fathers.

In relation to one of the saddest features of the war he took a prominent part. In December, 1900, his niece, Miss Emily Hobhouse, moved by the sad accounts which had reached her of the suffering of the Boer women and children, who had been rendered homeless by the burning of their farms, and carried off to what became known afterwards as Concentration Camps, sailed for South Africa, determined, if possible, to visit the Camps and bring to the sufferers such



relief as circumstances might allow. She received a permit to visit the Orange River Colony from Sir Alfred Milner, and found already in active operation the condition of things which subsequently produced so terrible a mortality. Accounts of what she found were written home to her relatives, and efforts were made by Lady Hobhouse and others to bring them to the notice of the War Office, and to obtain relief for the sufferers. For this purpose in particular the Committee of the South Africa Women and Children Distress Fund was formed. On its behalf Lord Hobhouse addressed the following letter to the *Speaker* :—

*April 15, 1901.*

SIR,—I write on the chance that you will be able to call special attention to one phase of the dreadful calamities in South Africa, for which you and I and all our countrymen, in more or less degree, have to answer. Some of those whose attention has been specially attracted to these things have for some time been trying to relieve the weakest and most innocent sufferers, and they have formed a committee which is now on the point of issuing an appeal for more general efforts to that end. I am not myself one of the committee, though my wife is, and I am doing what one weak individual can to assist them. This communication to you is written without their authority, but each separate utterance does something to diffuse that knowledge which is the necessary condition of right action. Our appeals are addressed to all English people who have hearts to feel for the sufferings of fellow men and women, and to all who are thinking what course of action at the present moment is most likely to bring honour and permanent rest to our country. We do not speak of political or military action; such matters are beyond our scope. We mean action for the relief of acute sufferings, of which, whether he thinks them inevitable, justifiable, or otherwise, every Englishman

must feel the painfulness, and none can say that he has not had a share in bringing them to pass.

Whatever may have been the cause of the disputes, whatever the rights and wrongs alleged on either side, it has been abundantly clear for more than a twelvemonth that we are engaged in the subjugation of two communities; small ones, it is true, but previously at liberty to manage their own internal affairs; and that they are fighting with all their strength to preserve that liberty. That species of war, war with a nation, leads to dreadful misery. It has led us on to lay waste large portions of the country, and to drive a portion of their male inhabitants and large numbers of women and children, who either would not or could not escape, away from their homes into camps where they are kept in confinement. This is done in order that they may not afford sustenance to the males who are in arms. But thus they are deprived of the ability to sustain themselves, and are dependent on the arrangements made by their captors.

The difficulty of such arrangements is very great. The results, of which we have received accounts at first-hand, are such as to rend the heart and to shock the conscience. Numbers crowded into small tents: some sick, some dying, occasionally a dead one among them; scanty rations dealt out raw, lack of fuel to cook them; lack of water for drinking, for cooking, for washing; lack of soap, brushes, and other instruments of personal cleanliness; lack of bedding or of beds to keep the body off the bare earth; lack of clothing for warmth and in many cases even for decency; no needles or thread to mend tatters; shelter only in tents of single canvas, now scorched by a very hot sun, and now drenched by rain, and very slender appliances to meet the maladies consequent on such exposure. It is not that our people are cruel; we are not casting blame; certainly many are doing what they can with the resources at their disposal, and doing it with pity in their hearts. But the evil comes of the nature of the war in which we are engaged, and of the

magnitude and novelty of our undertaking to uproot a population and to keep it at a distance from its own home.

We do not dwell on wounded feelings, the anguish of separation, the despair of watching the children, unable to help while they waste away. These are griefs which money can alleviate but little. But every kind of physical affliction seems to be accumulated in these camps, or, at least, in some of them, containing thousands of people: hunger, thirst, nakedness, weariness, dirt, disease; and money judiciously applied may alleviate these things.

We add that our proposal is to give help wherever sufferings and a chance of alleviating them are found; all without reference to the national character of the recipients. It may be that the greater part of what we collect may go to Dutch people; but if so, that will be because they are the most numerous and the most exposed to want and hardship.

We have disclaimed all political or military references; and yet there is one sense of the words in which our enterprise, if successful, can hardly fail to have a political result. Whatever differences of opinion there are as to the merits of the war and the course it has to run, all agree that, after it is over, English people and Dutch will have to live in the same political society. Anything that attracts the two component parts of that society to one another will diminish its friction and strengthen its union. And it may well be that the help, and perhaps still more the sympathy, brought by English people to the women and children of the Dutch in their direst need will soften the feelings of the weaker party, and make it easier for them to unite in one community with the stronger.

Not being allowed to prolong her visits to the Camps, Miss Hobhouse returned to England at the end of May, 1901, and made a personal appeal to the authorities at the War Office for a reform of the Camps and

for permission to return to assist in the work. To the latter request no answer was given, and while promises of reform were made, the death-rates, of which monthly returns were given henceforward, proved that the accounts which Miss Hobhouse had given of the conditions of life in the Camps had erred only by being too moderate. As the summer wore on, matters grew worse; with each monthly return the death-rate increased till, as Dr. F. S. Arnold said in an address from a deputation of citizens to the Lord Mayor of Manchester, it rose to a point paralleled only in the great historic pestilences. The War Office had appointed a committee of ladies to visit and report on the Camps, but their sailing was delayed; and, moved by the continual letters which she received from South Africa painting the distress and despair of women and children, many of whom were now personally known to her, Miss Hobhouse determined to make a final attempt to reach the Camps again. She sailed accordingly in October, but was met at Capetown by an officer and soldiers, by whom she was forcibly deported. On her return to England Lord Hobhouse at once took up her cause, and stated her case in the following letter to the papers:—

SIR—My niece, Miss Emily Hobhouse, writes to you a letter explanatory of the incidents relating to her seizure in Capetown and deportation to England. Can you find space to append to it some remarks from my point of view?

No power on earth can prevent the case from being publicly discussed, and that process may be rendered more intelligent by a temperate statement of facts and an indication of the great principles on which they bear.

Miss Hobhouse does not enter on any political question,

except so far as the attack on her liberty is itself a political question. It may, with other attacks on other people, become one if the law is found unequal to protect private individuals against orders which persons in command of the organized forces of the country, and therefore physically masters of it, may take it into their heads to issue. Every reasonable effort will be made to bring this case to the calm arbitrament of law. And I say no more on that side of it now, except that I believe the treatment accorded to her has no warrant of law to support it. But suppose I am wrong. Suppose it to be the law that the Crown (i. e. the Minister for the time being in office) has power, on its own allegation of military necessity, to declare 'martial law,' and that no court of justice can inquire whether such necessity really exists, what law do we live under? There is no difference in this respect between a colony and England. Is it the case that the Crown can abrogate all existing laws in any given area, and place the persons and property of its inhabitants at the discretion of some soldier who happens to be in command there and then, one who may be an able and thoughtful man, such as Lord Kitchener, or may be an inexperienced subaltern who takes action pending orders from a superior? The great Duke of Wellington, who saw into the heart of practical matters with as true insight as was ever given to man, has told us that 'martial law' (other than the law applicable to military forces) is no law at all; it is the will of a man who has force at his disposal. No lawyer that I can discover has ever told us anything so full and so true about that military dictatorship which we have called by the misleading name of 'martial law.' Such is the general notion of it. Such is the practical working of it. Its results on the large scale, when passions run high, are such as no man likes to contemplate or read about. In Miss Hobhouse's case passions have not run high, and the consequences, though injurious, are not grave; but the principle that underlies it is just as momentous as in any other case of military dictatorship.



Taking her account as correct, all her remonstrances were met by the one magic formula: Why am I prevented from joining my friends?—Martial law. Why should I submit to be examined by a strange doctor instead of my own?—Martial law. What right have you to set those nurses upon me?—Martial law. By what authority do you take me from my ship into another?—Martial law. What offence have I committed?—Martial law. The poor officers, indeed, said all they could, and it is all quite logical on the theory that the will of the commander is the law. But then it shows in a strong light what, on nearer acquaintance, this sort of law is; how it may reign paramount over the minutiae of life, according as one thing or another is convenient for the officer on the spot. Doubtless in other cases, where immediate action is necessary, the officer on the spot acts as he thinks best; but only subject to the ultimate judgement of a court of justice as to the right or wrong of what is done. I would urge my countrymen to fix their attention on these principles, which lie at the very root of the division between free and despotic institutions. If the law is, as the authorities contend, constitutional, questions familiar to our forefathers, but unfamiliar to us, will soon arise. And, seeing how very long a time it takes to inform large multitudes as to the value of an abstract principle not yet violated in their own persons, they cannot begin a day too soon.—Yours, &c.

HOBHOUSE.

15 Bruton Street, W., *December 3, 1901.*

As to the difficulties besetting any action to test the legality of the deportation, he wrote to Mr. Symonds:—

15 Bruton Street, W., *December 5, 1901.*

Our first difficulty is to find a defendant in England. I do not expect that Brodrick or any other Minister will help us.

As to an Act of Indemnity, of course the Ministry can have one by holding up a little finger. Opposition would

not have the ghost of a chance; nor do I think that any would be offered; for arbitrary as Ministerial Acts, whether defensible in law or not, have been, and senseless as I think them to have been, they have the national will at their back, which, if it had been previously expressed by the Legislature, would leave no legal ground of complaint. And resort to Indemnity is an admission of illegality, or something like it.

To impeachment there is the same practical answer: an overwhelming majority. We are in a minority, I fear still a very small one; and we must make the best of it.

It is gratifying to hear that public-spirited men are willing to contribute funds. But, for more than one reason, I prefer to bear on my own shoulders the expense of the suit, as well as the odium and the ridicule which its failure will bring down. I believe I can bear it all. What I cannot do is to carry on newspaper warfare. I cannot read quick enough, nor write, nor think; in short, I am too old and worn out. I did not like writing the letter I have written: yielding only to urgent instance of friends; and I cannot now think it of any importance.

I fear that legal expenses will prevent my giving even the little I am wont to give to political objects; but I must rub on as best I may.

In point of fact it was found impossible to bring an action, and the incident remains as an evidence of what is possible under the laws of a free country.

In home as in foreign matters Lord Hobhouse's attitude was essentially that of a Liberal of the old school, but it was tempered in relation to domestic affairs and to economic questions, first, by a deep-lying sympathy with the working classes, as men labouring under permanent difficulties in the way of obtaining justice, and secondly, by a clear perception, based on a practical knowledge of affairs, that the energetic and

unimpeded action of public authorities is in many matters the only alternative to the corrupt influences of wealth. This second point is sufficiently illustrated by his work in forwarding the creation of the London County Council, and in promoting a more equitable adjustment of local taxation. In the letters which follow, there will be seen a very strong sympathy with the aims of labour, contending with a distrust of many of the methods of Trades Unions and of many of the principles of Socialism.

TO LORD FARRER.

Charlton House, Nailsea, Somerset.

*October 3, 1892.*

Many thanks for your letter of 30th ult., and the accompanying memorandum on wages. I think the letter is sure to have a good effect, bringing out as it does the great magnitude and formidable difficulties of the operations which some of our members [of the L.C.C.] think so simple and so easy to handle. I think we may rely with tolerable confidence on the working of experience in this department, as in others, of human affairs. It is very natural that the men who have fought on one side of the wages question should see that side clearly, and the other side dimly or not at all; and not surprising that the representatives of wage-earning constituencies should for some time be swift to follow the wage-earning members. But there is nothing like responsibility for making people slow and cautious. Mistakes doubtless have been and will be made in endeavouring to redress what most of us think to be the inequality that bears against the hand-worker. But they are made on cheaper terms, and are more easily set right, by Municipal than by National Governments; and every experiment will bring its lesson of failure or success to a number of men whom the progress of events is irresistibly, and rapidly, bringing to play a most important part in

public affairs. This sort of consideration has made me anxious ever since the great extension of franchise in 1867 to bring forward working-men into School Boards, Vestries, administrative bodies of all kinds. And though they think thoughts and do actions which I cannot well understand, I conceive it to be a matter of political necessity that their views shall have a trial: and, moreover, finding those I have come across to possess as much ability and honesty as other people, though possibly biassed and narrow, I believe that after a not ruinous amount of experiment, under the pressure of great responsibility, and with plenty of criticism and discussion, their efforts will produce more good result than bad, even as regards the single question of wages: to say nothing of the political and social stability given by the free play of conflicting views. I think your paper is excellently calculated to make people think, whether they be headstrong, one-eyed labour-members, or men who, having no clear views of their own, have followed those whom they believe to understand the question best.

He was quite capable of sympathizing with the demands of labour when they affected property for which he was himself responsible, as appears in a letter of much earlier date.

Simla, *June 30, 1872.*

. . . When M. wrote last, she mentioned a strike, or at least a combination, for rise of wages at Hadspen. One would be very sorry if an actual strike were to take place, for that leads to much misery, but I am not sorry to hear that the labourers there have the spirit to demand greater advantages for themselves. I am sure that nothing effectual can be done to bridge over the frightful gulf between rich and poor which exists in our country, till the poor become intelligent enough and strong enough to manage their own affairs. We are, of course, a very long way from that yet: but education is beginning to tell, and life is stirring the

inert mass. It is probably the prelude to a better state of society; but that can hardly be reached without severe troubles in the process.

TO LADY HOBHOUSE.

15 Bruton Street, W., *July 23, 1897.*

The discussions on Compensation &c. Bill do not begin till Monday, so I shall not be present. I have received a sheaf of 'amendments,' real and supposed; very real, some of them, in my opinion: but then I have always hated, and still hate, the law which makes a certainly and absolutely innocent man liable to pay for injuries suffered by another who cannot be more innocent, and is in many cases clumsy or careless or foolhardy. But mine is not popular doctrine; and political parties are with one another in denouncing it. So there is nothing for the isolated thinker to do, except sit by and wonder what will come next. I guess that the next thing will be to throw all the burden of individual misfortunes on 'the State,' which the wise leaders of the artisan classes teach them to look upon as an omnipotent being, existing apart from individual men and women, with an inexhaustible purse filled by some magic, and ready to remove all ills of life. And so they cry more and more for 'State' aid, not knowing that they are themselves the State, and that payments by the State come mainly out of their own pockets and are to a large extent a device for making the industrious and thrifty pay for those who are not such.

TO CANON BARNETT (with reference to the Engineers' Strike).

15 Bruton Street, W., *November 3, 1897.*

I am quite prepared to think you have done right, because you have a profound understanding of the relations between capital and labour; and are sure to judge sympathetically and wisely. I am not, however, prepared to follow you. Doubt is the parent of inaction, and I have



serious doubts on which side one's sympathies ought to be. I do not pretend to have studied the case any deeper than to satisfy myself that the points raised in this particular dispute are such as only one who is versed in such questions can understand; and that a superficial looker-on is just as likely to do harm as good by interfering. Probably the present tussle has a long history behind it, and is the climax of many lesser ones. Perhaps it is in its essence a struggle for power, or for independence, between capital and labour. It is true that readiness to confer is a point in favour of the men, but it is only one of many stages of the dispute. Twenty years ago, perhaps even ten, I should have been in favour of the men in a general struggle, but they have latterly, along with increased power, shown (as I think) such ugly tendencies towards tyranny as to make me suspicious of them; and doubtful whether their victory would be a public good.

It seems absurd to think so much of one's own absolutely insignificant action, but, on the whole, I shall feel more easy in my own mind by not interfering at all.

TO MR. G. J. HOLYOAKE.

*January 27, 1904.*

Comparatively early in life, I became a convert to the principle of encouraging the presence in Parliament of representatives drawn from the poorer classes; and after the extension of franchise in 1884-5 I have thought it of great political importance. The wealthier Liberals have been very shy of it; and I remember thinking that in the case of Odger they behaved both unwisely and unfairly. I think they are wiser now: but it is probably from their reluctance to Labour members, or partly so, that there has grown up among the Labour ranks that hostility to the Liberal party which in some minds seems to have become a leading principle of politics, and which is used, with reason or without, to injure Liberals at elections: thereby most certainly also injuring the interests of the Labour

class. I remember reading some three or four years ago a letter by Goldwin Smith, who gave a large share of his brilliant abilities to the service of the Labour class, expressing his dismay and disgust at the masses of the artisan class in England joining with their old oppressors to trample down those to whose efforts they owed the increase of their power and material welfare.

The rise of the Protectionist movement served to confirm Lord Hobhouse's conviction of the immense and growing power of the organized forces of wealth to influence public opinion.

TO MR. HOLYOAKE.

*February 13, 1904.*

To my mind, among all the sinister phenomena emergent during the last twenty years, the most ominous of formidable political danger is the complete success with which the money power has subjugated the ephemeral press, which for all immediate political purposes leads the nation. Our conquest of the two Dutch Republics was carefully prepared by years of sedulous slander against the Dutch in African newspapers, all echoed in the bulk of English papers; and these papers have passed into the hands of the rich classes, who favour military force and autocratic government, and are steady adversaries of freedom and of all the institutions that make for it. Look at the sudden sweep of the doctrine of commercial protection over the country. It is due very largely to the command gained over newspapers by rich people, who have been pouring out money like water for the purpose of saturating the country with their arguments, and (until rebuffed) of influencing elections. The sums spent have been enormous: and yet we poor simple folk, who without any veil over us support the present commercial status, cannot by any means find out who are the promoters of this vast propaganda. Surely it was never yet heard of that a great

public agitation for a revolution in fundamental national policy should be carried on, and that we should not know who are the people who are hiring advocates and spreading literature to keep all this agitation going. It seems to me a serious public danger.

TO L. T. HOBHOUSE.

15 Bruton Street, W., *March 27, 1904.*

The extreme difficulty [lies in] conveying information to large numbers of people when it is not that sort of information which newspaper people call in their slang 'good copy.' It can only be done by those who have got some powerful machinery at their back. Such machinery was, and is, at the command of those who call themselves by the euphemism 'Tariff-Reformers.' As their method of return to barbaric institutions has in its favour a large part of the daily newspapers and the whole of the well-manned caucuses in the Tory interests, they had only to print their fictions and their fallacies, which must have been very easy to produce, and then nothing was needed but money to set them rolling along the channels already cut for their reception. The money, we know, was forthcoming at once in profusion. The extreme bashfulness of its providers prevents us from knowing from whom this great public service proceeds. But there is more than one wealthy interest to which it may be highly profitable to spend money freely in securing power to the party which favours those who possess money. I was told the other day by a man who is much among political people, that there are active Tory partisans (whether calling themselves Unionists, Liberal-Unionists, Imperialists, Constitutionalists, or any other fancy name matters little) who say that they do not care what the next election may cost them, because the brewers will provide it all. Certainly if the brewers spend ten millions in giving the Tories a fresh term of power, they may easily get twenty in return. So would other great monopolists or compact alliances, such as water companies, urban landowners, money

dealers, contractors *et hoc genus omne*, including patriots who own gold-mines; to say nothing of our friends the parsons, who provide, not much money, but vast quantities of platforms for rural audiences. It is the principle of Tammany—simplicity itself; you put me in office, and I will take care that you shall dip your hands in the public pocket.

You think that the particular form of the great general reaction in favour of private interests as against public, which consists of cunningly adjusting customs duties, has been killed. I, thinking of the eternal and ubiquitous power of the purse, and seeing that the purses have with them, either directly or indirectly through other issues, the men of rank and office, the organized professions, including those of education and official theology, cannot rise above a hope that you may be right.

28th. Saturday's Hyde Park meeting seems to have gone off with spirit and without hitch; not like the meetings held to protest against Dizzy's wars, which were broken up by City patriots importing well-drilled mobs for the purpose. I see one of the loudest of fanfaronades in the *Daily News* this morning, and well written too. But I don't suppose it will have much effect. The men now in power have learned to despise the voice of multitudes, unless it is expressed at the Parliamentary polling-booths. But those are exactly the places to which Londoners resort for the purpose of taking away the power which at Municipal elections they seem to confer on popular causes; and they have well earned the contempt they have got.

I hope you will get a refreshing holiday, and be able to put aside for a time the grinding controversies into which you have been plunged, and to enjoy the exquisite beauty of vernal Italy, which we stupid English only visit in dusty autumn; and to indulge in some days of intercourse with the great creations of great artists, painters, sculptors, architects, whose genius blossomed when the heavy weight of ecclesiastical theology was lifted for a while by the return

to 'pagan' thought. Whatever the 're-birth' did or failed to do, it certainly produced a great outburst of human energy in many ways; though, alas! it was to be quenched again too soon by the strong hand of power; how far owing to its own demerits who shall say? *Adhuc sub iudice lis est.*

Lord Hobhouse was well aware that the reactionary movement which so much impressed him was not confined to his own country. He was, however, very doubtful as to the value of any criticism by English Liberals of the doings of another nation.

TO DR. EVANS DARBY.

Banwell Abbey, Somersetshire, *August 13, 1904.*

DEAR SIR,—I beg to acknowledge your letter of the 8th inst. inviting me to join in the address to President Roosevelt, of which you enclosed the copy herewith returned.

I think with you that these outbursts of savagery over large tracts of the U.S.A., apparently among all classes of society, or with the tacit acquiescence of all, must be classed among the ugliest symptoms of that recrudescence of, or relapse into, barbarism which, as it seems to me, is affecting large portions of Christendom. It shows itself in all departments of human thought and conduct: reviving abandoned beliefs and reverting to social types which have been tried and found wanting. In the cases with which you deal, it shows itself in taking popular clamour for evidence, and accusation for proof, and violence for firmness; in refusal to wait for calm inquiry; in bloodthirsty desire for vengeance; and in enjoyment of tortures inflicted on the victims: all impulses of barbarous peoples, very hardly and slowly overcome by civilizing agencies.

It is true that I have no personal knowledge of these things, but I have for years past seen them stated in public prints, and have not seen any public contradiction of them: nor can it be truthfully said that they are intrinsically incred-



ible, therefore I believe them to be true. And so strongly do I feel the existence of a great evil, that I do not like to refuse participation in your address without giving a reason.

My reason, curtly stated, is that I think the intervention of foreigners in the affairs of a great nation by direct approach to its Government is likely to prove not only ineffectual for its purpose, but a source of irritation which, if it produce any result, will enlist national pride in defence of the impugned conduct, and so harden the wrongdoers in their wrongdoing. And this consideration is, I think, strengthened when the conduct impugned is the natural offspring of a temper into which a large portion of the stronger races of mankind have fallen.

I do not see clearly whether you consider that the practice of lynching is or is not due to hatred or contempt of the negro race. I have underlined some passages which look both ways. In such accounts of lynching as I have seen, a coloured person has almost invariably been the victim. If, however, it is true that white persons are lynched indiscriminately with others, the practice cannot be ascribed wholly to race prejudice. My own belief is that it is due to race prejudice. That evil temper has been only too prevalent among our own countrymen, (as everybody must see who has made himself familiar with the history of either the East Indies or the West, or of our dealings with Chinese or Africans or Australians or Maories. But in the Southern U.S.A. it has been sharply accentuated by generations of slave-holding, and by the forcible abolition of slavery. It is notable that Americans have been familiarized with lynching through the (not unjustifiable) repression of crime by volunteer agency, in the half-settled territories where the law was not yet strong enough to cope with robbers and murderers. But there, the offenders, being white men, the practice of lawless revenge has weakened with the weakening of lawless persecution, and with the strengthening of more regular and dispassionate modes of dealing with it. *Quaere*, has it weakened in the case of Negroes?

It is far from my wish to raise controversy with you, or to suggest that you should reconsider your proceedings because another who sympathizes with your general aim feels doubts as to their practical effect. No man more than myself deprecates the prevalent doctrines. The flood of reaction has been visibly rising these thirty years and more; and our Transatlantic kinsfolk are taking their share of it in such modes as are congenial to their history and present political circumstances. The very rudiments of national morality have to be learned all over again. . . . To you and others who are endeavouring to teach their fellow men to follow the ways of peace and justice, and to hate high-handed aggression in all its workings, whether by nations or races or classes, I cordially wish all success. Moreover, the wording of your address appears to me to be very temperate and courteous, and as inoffensive as its matter permits. But I have probably said enough to show that a man may earnestly desire to abate violence, and yet hesitate to follow a particular road by which others seek to reach that object; though you may, and probably will, think my reasons weak and inconclusive.

TO L. T. HOBHOUSE.

Banwell Abbey, *October 2, 1904.*

I should like to see some passages of history put together with the view of showing how certainly, and how quickly, a nation which throws itself into the business of conquest loses its own liberties, and with them its power of initiative and its general health: as in the cases of Spain and Portugal, and of France under Louis XIV and both the Bonapartes; not to go back to wider ranges of time or space, or forward to present affairs. The same survey would show how the lust of conquest is habitually disguised under the names of Liberty, Religion, and Peace. Spain and Portugal were to convert benighted Americans and Indians to Christianity, and were blessed by Popes accordingly. The elder Bonaparte was always going to establish

peace. The younger one did actually establish it, according to his own assertion. 'L'Empire? c'est la Paix!' was his frequent refrain. Poor honest fellows; both found perverse neighbours who waged constant wars against them till they were beaten down. But I don't expect you to do this piece of work; at all events not now; perhaps you may come across somebody else who will. Meanwhile, I am sure that your essay can have none but a good effect, if it has any at all. I add this proviso, because I feel convinced (I dare say you have heard me say so before) that our countrymen are so besotted with their visions of Empire—meaning that an Englishman shall feel himself to be the lord of half the earth's surface, and so sit at home κύδει γαίῳ like Homer's Zeus—that nothing will cure us except some great and painful shock, whether it come from foreign war or from intestine commotions. If this foreboding is wrong, *lucro appone*. You are, at all events, right in trying to bring about a saner mood by appeals to reason.

The 'essay' here referred to was the proof of a volume on 'Democracy and Reaction,' published a few weeks later. Lord Hobhouse went through the proofs with his accustomed thoroughness. Some of the longer comments on points suggested to him by its perusal are subjoined.

... There are two main causes of reaction after every great forward movement. One is that some of the most energetic of the movers are those who have set their hearts upon destroying, or it may be creating, some particular institution. When their object is gained, these are satisfied and cease working. Again, there are many, probably the majority, who form extravagant expectations of the results of victory, and when they see only reasonable results they are disappointed and angry; all the more so if, as is likely, even those reasonable results are attenuated by the imperfections of all human endeavour. So both satisfaction and

dissatisfaction are obstacles to further effort in the path of reform. The sequel of the great Parliamentary reform of 1832 is a striking example. Immediately after its passing, large bodies of Whigs (the arch-Radical, Sir Francis Burdett, among the first) joined the Tories, forming the Conservative party under Peel. In 1834 the overwhelming majority of the Reformers was much reduced, and in 1837 there was a compact Opposition of 300 in the House of Commons, who nearly paralysed the action of the Melbourne-Russell Ministry.

I do not think you have lost sight of causes like these, but they might perhaps be usefully more accentuated. I myself have always thought that in 1868, and again in 1880, the nation was, under Gladstone's mighty impulse, moved to a higher moral level than it was able to maintain, and it fell back accordingly under the influence of coarser passions when the impulse was relaxed. His boldest and noblest actions were made the objects of keenest attack by the enemy, and were but feebly supported in the country; such as the Alabama Arbitration, and his reversal of the Frere-Shepstone-Colley-Lytton piracies; both leading to excellent results, though afterwards spoiled by the revival of the pirate (Imperialist) policy; and as his Irish Home Rule, which he was not allowed to try.

... India is the only real 'Empire' we possess (unless we include Ireland as another province held under our direct government by military force), and with its acquisition Liberalism had very little to do; though its administration gives rise to the essential differences between popular and autocratic tendencies. When we attempted to treat the American Colonies as our 'Empire,' we failed. Only a few Whigs, such as Burke and Fox, had then risen to the conception of self-governing offshoots. It was after Papineau's rebellion that this conception took vigorous root; and its growth was doubtless due to the Liberal party. The present loose but real union between us and our American and Australasian Colonies is

due to this conception. If the Georgian principles were revived, we should break up to-morrow.

... It is a difficult job to call a political party by the name which suits it best, especially when it is changing its name every few years, as the Tory party and its successors have done. Unmeaning nicknames are usually the best, such as Tory, Whig, Bianchi, Neri, Guelf, Ghibelline, Huguenot, Mountain, Whiteboy, Malignant, Copperhead, Locofoco, and so forth. Parties using names that denote qualities take good qualities for themselves and bad ones for their opponents; and the names, even if justifiable at the moment, are apt to become very inappropriate as time runs on. But to make a nickname convenient, it requires that the party should have borne it for a long time. The Tory party in the hands of Peel dropped its name and became Conservative, implying that its opponents were destructive of something that it defended. Disraeli hated the name Conservative and liked the name Tory; but Tory had a bad odour, and he set up other names, such as the Country party, and the Patriotic party. Certainly in his hands Conservative was one of the last epithets applicable to the party which he used for destroying the work of Liberal Ministries, and saturating our politics with Imperial military ideas. None of the new names stuck till the happy moment when the Liberal party was frightened at the proposal to apply its own principles to the government of Ireland; and then the combination which truly represented the Tories in upholding government by force took the name of Unionist, and fell under the leadership of Chamberlain. The new name and new leadership proved to be most valuable acquisitions. I don't think that the Conservative side of this combination attracted the new voters of 1885 or the great mass of the middle class, who displaced Liberals for the sake of Tories. It was the Tory side. They were attracted by rank, wealth, office, the weight of clergy, lawyers, soldiers, organized professions and interests, by the incessant exaltation of military glory



and depreciation of justice or generosity towards other nations as being mere pusillanimity. On the temper so created came the great moving power of money; freely contributed by the owners of it, who have found the purchase of political power to be the purchase of the national purse and the best of investments, and who found their position menaced by the Liberal principle that public interests must be preferred to private. That was all very well to talk of in the abstract; but when Gladstone and some of his adherents proceeded to give it practical effect, that was a very different affair. Money, freely spent in buying up newspapers and in other modes of political propaganda, and in bribery, not sporadic and direct at elections as formerly, but indirect and continuous by local entertainments, support of local charities, and so forth, was and is the spur that makes the mare to go.

We have said that Lord Hobhouse was a Liberal of the old school, in fact, he was in the best sense essentially a man of moderate views and cautious temper; the good side of his native Conservatism never left him; yet his most prominent interventions in public affairs, whether dealing with endowments in the early seventies or in opposing the war passion at the end of the century, made men think of him as an extreme and almost dangerous Radical. He possessed the judicial temper in an eminent degree, yet he is also seen in these letters and in many public acts as the resolute advocate of an unpopular opinion. The explanation of this apparent contradiction is simple enough. His opinions on public matters were founded upon actual observation of affairs rather than on abstract principles, and moulded by a certain native caution, an unsanguine temper, and the lawyer's reverence for the past and habit of looking at things all round before giving an

opinion. But the opinion once formed, from the very fact that its foundations were so secure, was held, against the world if necessary, with a tenacity which is rare in any department of life, and the swing of circumstances brought Lord Hobhouse's opinions, moderate and reasonable as they were in themselves, more than once into sharp conflict with the excited emotions of the public at large. The man who under such circumstances will not budge an inch is always for the time an extremist, and to be an extremist in this sense and until the judgement of his countrymen cooled, Arthur Hobhouse was not afraid. Characteristic of his general attitude to public affairs is a letter on Halifax 'the Trimmer.'

TO MISS FOXCROFT.

Charlton House, Portbury, Bristol,  
*September 16, 1896.*

I return with many thanks your copy of Halifax's *Trimmer*, which I am glad to have seen, and have read with great interest. It is full of wit and point; and for the most part, as I think, of political sagacity not confined to a particular juncture but fitted for all times. . . .

In my judgement we are at this moment in the stream of a revolution strongly analogous to that of the seventeenth century. Then the problem was how to change from a government mainly monarchical to a government by the classes who had got knowledge, and with it, power. Now much larger classes have got knowledge, and with it, power, and the problem is again how to adapt forms and machinery to the substantial changes. There are no public men who play a more useful part in such adaptations than the Trimmers; who are despised and vilified by partisans on both sides; but who prevent attempts to do *per saltum* what can only be done in long periods of time, and make it

possible to effect great changes with little bloodshed, or, under favourable circumstances, without it. In France there have been few Trimmers or none, and their social changes have been sudden and violent, and often disastrous failures. In England we took half the sixteenth century to achieve the object of a National Church independent of the Pope: nearly the whole of the seventeenth for the more difficult task of setting up a constitutional Monarchy controlled by a strong Oligarchy: a large part of the nineteenth with (I will venture to prophesy) a large part of the twentieth for the still more difficult and complicated task of adapting our institutions to the vast numbers who claim, and who ought, to take part in public affairs. In all these movements the man who has the sagacity to see and avoid excess and hurry, and to take the weaker side for the time being, lessens the inevitable shock. He is not the driving power, but the governor, of the engine: not the sail, but the ballast, of the ship. And such a man, I take it, was Halifax.

Sincerely yours,

HOBHOUSE.

A mind so active and so sincere was not likely to rest placidly in any traditional view of religious questions, merely because it was traditional. That Lord Hobhouse should have thought long and deeply on the ultimate problems is in accordance with the sincerity of his character and the profound seriousness of his outlook upon life. What his final views may have been is nowhere stated, but it is clear in the first place that he was in the widest acceptance of the term a Rationalist; he believed that reason should be allowed to play freely round all matters of human interest, and the deeper the interest involved, the more urgent the need for rational investigation. In the second place, for him the essentials of religion lay in morality, and it was by its effect on morals

that the pretensions of any creed were to be tested. From this it followed further that the contrast between pretension and performance struck him often with painful force, and, particularly in those later years of his life, when so many lights of the religious firmament were shining only to the increase of the moral darkness, he pointed with his usual incisiveness to the contrast between the articles of their creed and the teaching that they were giving to the people.

His general view is expressed in a fragment written in August, 1898.

*August 10, 1898.*

Religion and morality are two sides of the same bent of mind; that which leads the man to act rightly. Morality is the law of conduct with reference to this world or life. Religion is the law of conduct with reference to some other world or life.

Sound morality and sound religion produce the same results in conduct and in promoting human welfare. Such religion as that of the Psalmist's (xv and xxiv), who places it in truth, honesty, clean hands, and a pure heart; as that of Micah, who places it in justice, mercy, and reverence; as that of the Epistle of James, which places it in benevolence and purity; as that of other passages of the New Testament, which place it in love to mankind; all such maxims of religion are just those of morality, only with reference more or less express to the will of a ruling Deity. They have nothing to do with theological dogmas of a tribal or sectarian kind.

The difference is this—the moral man, following laws which he believes to be ascertained and continually tested by their effect on human welfare, seldom goes astray far or for a long time. Whereas the religious man, believing that

he is obeying the positive commands of a Deity, or is securing his own welfare or possibly that of others after death (points which cannot be ascertained or tested), may be, and often has been, led into extravagancies of conceit, pride, folly, and cruelty, which bring mankind into degradation and misery.

It was probably more a love of civil liberty than agreement in opinion which prompted the following letter to Mr. Bradlaugh :—

TO C. BRADLAUGH, ESQ.

15 Bruton Street, W., *August 25, 1888.*

SIR,

I have not the honour of personal acquaintance with you ; and if you have heard my name, that is probably all you know of me. But for ten years or more I have, though not able always to view things as you do, admired the bravery and constancy with which you have battled for peace, for freedom, and for the welfare, as you see it, of your fellow men. Two days ago I read in the *Star* a letter from you, showing how your combats in these public affairs had involved you in debt, and how, not asking help from any one, you asked only that others would not encroach unduly on your time and strength, while striving to work yourself free.

My object in now writing is to ask you to accept such small aid as I can afford. I wish it were more, but it has been my lot for many years to do public work without pay ; and so, among other luxuries, I have often to deny myself the luxury of giving to objects I should like to help.

I have no right to offer you money, or to be offended if you should reject it. But I hope you will accept it, because, though its amount is trifling and will do you little good, it is offered from simple respect.

I will only add, that, except to the one person with whom I have all goods in common, viz. my wife, I never speak of



private gifts such as this ; and she is as silent as myself ; so that it will rest entirely with you whether the transaction is or is not known to others.

Believe me to be,

Respectfully yours,

HOBHOUSE.

The following correspondence with Mr. G. J. Holyoake, begun in 1899 and extending over the last years of Lord Hobhouse's life, sufficiently illustrates his attitude.

15 Bruton Street, W., *July 31, 1899.*

I have just received an appeal on behalf of a Rationalist Press Association, of which I infer that you are the prime mover. I speak of my advanced age with diffidence, because I am addressing a man whom I believe to be older than myself, and yet who is conspicuously active in promoting what he believes to be truth and justice. But my energies are fast dying out, and I feel extremely averse from joining any fresh societies or combinations. At the same time increased length of life has continually brought to me increase of conviction that, important as is authority, tradition, or custom for the support of our weak human nature, the free play of the most divine faculty in man, his reason, is far more essential ; and that it is very difficult to exercise, while acquiescence in use and wont is easy enough. I see, or think I see, in this generation a lazy relapse to ruder and less noble ideals of life : the military, the priestly, the autocratic ; with the consequent habits of praying to Hercules instead of putting a shoulder to the wheel, and of looking to be guided and protected by somebody else through the hard places of life instead of overcoming them by self-exertion. Those who are called Rationalists appear to me to be doing, as they have long done, very valuable work under great discouragement, by continually calling on their fellow men to bring assertions to the test of reason, and to rely on themselves. And it is because of their invaluable method and of their constant

courage in enforcing it, rather than from assent to any particular intellectual propositions (though they are not to be despised), that I feel they deserve the gratitude and acknowledgement of men who from whatever cause—other occupations, weaker faculties, aversion to public controversy, hesitating doubts, or mere indolence—look on without joining in the conflict.

You do not ask for money apart from the proposed industrial enterprise : but if you will allow me to accompany these expressions of goodwill with a humble gift of money, such as befits a man who has for long worked without pay, I shall be glad. Please accept the enclosed cheque, to be applied as you think fit : and do not hold yourself accountable to anybody for the use of it. With great respect, I am,

Faithfully yours,

HOBHOUSE.

Charlton, Portbury, *April 8, 1899.*

I can remember the name of Ernest Jones very well in the days of my early youth as a leading member of the Chartist body, whom I, like most of my fellows in age and position, then looked upon as rash and dangerous, even malevolent, disturbers of the peace, but whom, after some years, I learned to regard as honest and brave men, who advocated political reforms, much in advance of the average political reformer of the day ; but which were all of them fair subjects of discussion, and which have since been to a large extent either actually accomplished, or accepted by large bodies of men as desirable goals to be gradually approached. *All honour to the pioneers in every march of the human army.* But I am quite conservative enough to think that, vexatious as it is to early reformers who see their way clearly, it is better for society at large that changes, whether of thought or of organization, should come slowly, and that each step onward should be made good through discussion and struggle before further steps

are taken. Comparing the progress of our own country with others, we have reason I think to be thankful that the social forces adverse to changes, however beneficial, have been overcome inch by inch, and that so we have been saved from the sweeping reactions which follow great changes made *per saltum*, and by the authority only of a few commanding minds.

To take your example of Omar Khayyam, the history of which I only knew dimly till now. His perfectly free play of thought about all problems of life (though just the same as that of Horace and other 'heathen' writers taught to us at school) is, when imported into daily life, calculated to shock violently the average religious thought of my boyhood. And if accepted at once by literary men, it would probably have created an organized and powerful and immovable hostile party among the mass of educated and religious society. But creeping painfully in through this channel and that, through such thinkers as Fitzgerald himself, as Tennyson, as Matthew Arnold, and many lesser men, the mind of Omar Khayyam has won its way into the broad deep current of English thought, and holds place as one view among many which go to make up the mental atmosphere of our time. And though we are now, as I think, in a backwater of reaction to a lower plane of thought and social endeavour, whence a strong necessity for men of your robust ways of thinking; our danger from soldiers, priests, Croesuses, and rowdy seekers after excitement, and idle pleasure-hunters, is not so great as that of France or Belgium or Germany or Italy, where the upspring of free thought was more sudden and seemed to be more complete than with us.

With regard to the penultimate sentence of your letter, you must permit me to be sceptical whether I wrote to you anything with which you are not familiar, or which is worth reproduction. But it does sometimes happen that some turn of expression, probably fortuitous, strikes another mind as of value. I need hardly say that I shall be glad if it has so happened with any words of mine.

*November 4, 1899.*

Alas for the hollowness of those who claim to be special and accredited prophets of peace, love, and divine counsels. At the first blast of the trumpets in a war of ambition, they are all for high-handed force and bloodshed. Where are the Bishops and Clergy, the incense-burners, worshippers of Virgins and Saints, conscientious Nonconformists, spouters of fine sentiments for peace conferences? With exceptions lamentably few, they are tramping along the broad and easy road laid down by the strong, the rich, and the excitable multitude. It would seem that there are few except the despised Rationalists and Agnostics (Atheists the Churches would call them) to maintain that the moral law is the same for nations as for individuals, and that there is no higher or deeper policy than to do as we would be done by. Here we are, however, in the delirium of war fever, and for the time preaching is idle or rather worse.

The French were just in the same state of delirium over Dreyfus; having no patience with those who insisted on seeking truth or doing justice in the case of a weak individual, when a million voices were shouting that nothing should be said or done to show that the 'Army' (= a few officers of high rank) or the 'Nation' (= a few leading politicians) had gone wrong. And by all accounts the priests were ringleaders in the fury. We in England were keen enough then to see the fallacies, the immoralities, and the dangers of the French temper. And so the French are keen enough to see the same faults in our national determination to take our neighbour's land, suppressing his national life; and to see that our professional preachers of revealed religion do not stand on any higher ground than the Jesuits in the Dreyfus case.

15 Bruton Street, W., *November 17, 1901.*

Your volume of 'Büchner' has arrived. Many thanks for it. I hope to be able to read it after a while, but not just yet: because I have other matter in hand, and because I

cannot read now except very slowly and by rather short stages, with intervals of rest. Moreover, the subject is one with which I am not familiar, and I see at a glance that the treatment of it is such as demands all my powers of attention to get any profit from the book.

The last book you sent (Gould's *Religion of First Christians*) proved very interesting. Its line of thought is, so far as my previous reading has gone, quite original: and it strikes me as one which throws additional light on the Gospel stories: and one which, both by its intrinsic worth and by the sobriety with which it is presented, is capable of commending itself to the attention even of those who are most wedded to the views of the orthodox Christian Churches as to their origin and sanctions.

Charlton House, Portbury, Bristol, *August 1, 1902.*

Coming to our accustomed autumnal retreat, I am met by a parcel addressed in your well-known handwriting: and I find myself indebted to you for two copies of Mr. Laing's work on *Modern Science and Thought*. I have always found this writer's books eminently readable and instructive, and I hope to read this one before long; given leisure, of which I now have a good quantity, and eyesight which every passing year bedims.

Is it possible that our countrymen are awakening to the perils of their march back towards barbarous ideals under the guidance of clergy, soldiers, capitalists, and ambitious politicians? or do we see only a slight rift in the clouds preparatory to fresh periods of gloom? I hear my Liberal friends shouting as if the recovery had come; but I cannot persuade myself that many years of retrogression in every department of thought and action, pervading all ranks of the community, and favoured by powerful organizations, is so superficial an affair as to be brought to a check without some much greater shock than the natural sequels of a food-tax and a fresh endowment of the state creed. If it proves to be so, a new phenomenon will have appeared



in our political history: not a very satisfactory one; for it indicates a degree of levity in public affairs inconsistent with well-ordered conduct, and dangerous to national stability.

October 31, 1902.

I have, as you surmise, returned home: not on account of Royal proceedings, the bustle and turmoil of which we old people have avoided: but after an absence of some months, begun for considerations of health, mainly my wife's, partly my own.

Many thanks for the books. I was about to get the new edition of *Supernatural Religion*, which I read in the original one some years ago with much interest. But I am tardy about getting books, because I am uncertain, and at best very slow, about reading those which I do get. Whether I shall read this new edition of *Supernatural Religion* I know not. I did read Bishop Lightfoot's strictures: temperate, grave, and worthy of a great bishop: and most remarkably and commendably free from the mixture of excitement and arrogance which then was too often the tone of the orthodox towards heretics: and indeed is so still, though in less degree. But he seemed to me to touch rather the details and the outskirts than the main body of the argument.

I am glad to hear you say that your Society has grown. It is quite certain that the willingness of people to hear discussion on matters which were taken as concluded by infallible authority, and not disputable without some savour of impiety, has visibly increased during the last quarter century. It is the most hopeful sign of spiritual life stirring the lump, among many lamentable signs of decay and paralysis in English society at large, and especially in the great, rich, and socially all-powerful organizations for maintaining traditional orthodoxy. For infallibility, whether of Pope, Council, Church, Bible, Koran, Pundits, always and everywhere smothers reason and drags down all spiritual life with it. Still, many generations must pass away before those

who appeal to human reason can compete with the multitudes who are not satisfied unless they can find some infallible guide who will save them the trouble of thinking.

*April 6, 1903.*

I have been reading a circular letter of invitation, signed by Mrs. C. F. Smith, and find that it carries my recollections back a long way.

I wonder whether my memory, which ever and anon plays me fantastic tricks, is deceiving me in mixing you up with an incident which happened in the year 1842, and which gave a new turn to my thoughts. A bookseller in Holywell Street placed in his window some notice of criticism on the Old Testament, calling its merits in question. This caused great offence to a passer-by, a young man, a school fellow of my own, honest, impulsive, and, as I was, brought up to believe that the controversies of which we heard one side had no other side. His zeal being kindled, he broke the bookseller's window. The next stage was the police office. I cannot well remember how the affair ended there, but I do remember that the sympathies of the 'respectable' classes and their press were all with the breaker of windows and against the seller of books. That offended my notions of justice and liberty, and it led me into a train of thought, slow and intermittent and not yet ended, by which I was landed in the belief that the free working of his Reason (or whatever name we may give to mental operations—I am not talking metaphysics) is the most precious possession of a man, and that the arrogance which refuses him the right to expose its workings freely to his fellow men is to be classed among the most dangerous and deadly of social disorders. I say my train of thought has not ended, because with enlarged experience of life it has constantly received additional confirmation, and been applied to a larger range of cases.

It may be that you were not connected with this Holywell Street affair, but somehow it and your name have been jumbled up in my head together. And I have classed you

with Mr. Thomas Scott of Ramsgate, whom, as with yourself, I never saw, or came into contact with except by some pen-and-ink correspondence; but from whose temperate and fearless methods of reasoning I drew much nutriment.

I observe in Mrs. Smith's letter, as I do in other quarters, the assumption that the proscription of heterodoxy is gone out of the world. I wish I could think so; but it seems to me that, in the tide of reaction towards ruder and lower types of thought and social organization, this favourite doctrine of the rulers has a fair chance of revival along with others which seemed dead but were only sleeping.

Will you take this acknowledgement in lieu of my personal presence at the meeting held in your honour?

To a clergyman who wrote to him during the war, appealing for a subscription towards the building of a church, he wrote:—

Your letter dated the 6th inst. has reached me; and I think it more respectful to you to send an answer, though it be one which will not meet your approval. Setting aside trifling contributions, such as would be useless to you and not becoming to myself, or to the solemn names by which you adjure me; and speaking only of substantial gifts; I have for the last two or three years found myself impelled to allot to public objects a much larger part of my means than formerly, and to employ it in objects other than those on which you set so high a value. I do not despise church buildings or decorations, which are pleasant enough in their place. But the great ruling power of the Universe, by whom you call on me to be guided, leads me to think of more serious things.

I find myself one of a great nation which has set itself to subjugate two small nations: and in that process has slain many of them, and has destroyed the property of all. Of the frightful misery so created there is, I believe, no doubt, even among those who think that our claims to supremacy are just, and our methods authorized by the customs of war. If

I thought so, I should still feel it one of my first obligations to alleviate the sufferings of the weaker party, whose belief in the righteousness of their cause is not less strong than that of the most confident Englishman in the righteousness of his. As I am one of those who think that through a history of many years we have, with some bright intervals, abused our irresistible strength, and done grievous wrong to our weak neighbours, I leave you to imagine the deep mortification with which I have found myself compelled to join in oppressing them, and the obligation which rests on me to direct my extremely insignificant powers of public action towards the aid of those who are trying to reinstate ruined homes, to allay roused hatreds, and to convince our countrymen that their violence is laying up for them a heritage not of strength but of weakness and national decay.

I should not have thought it necessary to make this answer if your letter did not appear to assume that, if only I were sufficiently guided by the Spirit of God, I should be led to adorn your church. I know nothing of the Spirit of God in this connexion, except that which moves men to do justly and to love mercy and to walk humbly. And the more I think of such things, and compare them with the doings of my countrymen, and of myself as an integral part of them, supported as they are by nearly every organized body in the Kingdom, the more my mind is led away from your objects and fixed upon others.

Yours respectfully,

HOBHOUSE.

## CHAPTER VIII

### THE CLOSING YEARS

APART from the regret with which he witnessed the course of public affairs, Lord Hobhouse's old age was a time of much peaceful happiness and quiet enjoyment. His interests, always manifold and vivid, were sustained to the last, and there were now, as throughout his life, numerous objects of more personal and private beneficence which always claimed a large share of his thought. With all his constitutional tendency to self-depreciation, looking back over his life he could not feel that he had done otherwise than well with it. This is admitted in a letter written to Lord Farrer, on the occasion of his golden wedding :—

Charlton House, Portbury, Bristol, *August 16, 1898.*

. . . The principal value of anniversaries, I always think, is to make one look back, and reckon up the sum of life, with its lights and shadows, pleasures and pains, joys and sorrows, grounds for satisfaction or for shame. Nobody can quite compare himself with others, because the thoughts of their hearts and the greater part of their acts are unknown to him; but the visible phenomena justify comparison in a rough way. Nor can he compare what has been with what might have been: because no one knows the might-have-beens; but conjecturally a comparison may be made. What I find of myself is that with all drawbacks of time wasted, opportunities lost, things done wrong and from wrong motives, and errors of judgement and misfortunes,



my score is as good as the average of my neighbours, is better than one used to speculate on in the days when we talked and dreamed over things at the outset of life, and far better than some conceivable alternatives which have come into view. Just at this moment people are in a flattering mood, and are making me out to be a better fellow than I ever was or am. But so far as there is any truth (there is a modicum) in such flatteries, I set down the influences for good in my life, firstly, secondly, and thirdly to my marriage with a clever, good, right-minded, and affectionate woman, and to the family of like character, whom indeed I had come to know intimately before I fell into love with her, but with whom she cemented my alliance closely, and, as it has turned out, indissolubly. I find this anniversary, and the review attending it, to be a very solemn thing (as indeed marriage was, though that was all prospect and this retrospect): worthy of rejoicing, but of rejoicing in a quiet and humble way.

You know our joint dislike of displays, rites, and ceremonies of all kinds; a dislike which in this instance was enhanced by the feeling that none of our own generation on either side had been blessed with as long a continuance of wedded union. And so we withdrew quietly to the scene of our first honeymoon, when the changes and chances of life were all hidden in the womb of the future; and all we knew was that we started with a good stock of mutual love, health, strength, and intelligence to work upon. Which of the two honeymoons was the most agreeable I am not quite sure; but we enjoyed the latter one very much in a sober humble spirit. And so we await what is yet to come; only hoping that the end may not be preceded by mental decay, nor by any inordinate amount of pain. . . .

Death he faced with equanimity; his one fear was that he might survive his own faculties, for as soon as his work was done, his only feeling was that 'night as welcome as a friend would fall.' A severe illness at

the end of 1902 found him very ready for either alternative ; so ready that a relative, fearing that the will to live had grown weak in him, wrote pointing out the strength of the ties, public as well as personal, that still bound him to life and its interests. On recovering he replied in the following terms :—

*January 19, 1903.*

I promised to answer what you wrote to me at Christmas about the choice between living and dying. Not that there is any practical question before me, because I am convinced that in my case the wish for life or death would not in any measure influence the event ; and I recognize both that the doctor's point of honour is to preserve life and that there are some who earnestly wish to keep me alive ; at least one, to whom I am bound by every conceivable tie. So I have loyally obeyed in all that my expert attendants have willed me to do.

But it is not amiss to put on paper such imperfect intimations as writing can convey of my feelings towards this supreme event of human life ; and your present appeal gives occasion for it. Perhaps I may take a place among your psychological gallery of specimens and enter into the structure of your next work ; only I suspect that my attitude is of too commonplace a kind to furnish any fresh material for the student.

From a comparatively early time in my life I have constantly borne in mind that I may die the next day, and have been quite content to abide the event. But I am confident that this abiding sense of the precariousness of life has never made the least difference in my external action, except so far as it may have given me serenity of mind, and have made me indifferent to risks. I have acted in all affairs just as if my life were to be continued to the end of the affair in hand ; and whether I have been idle or strenuous, timid or brave, selfish or generous, rash or prudent, harsh or gentle, spiteful or kindly, my actions

have been governed, not by the sense that I may die to-morrow, but by the ordinary springs of human conduct, and I believe that in all this I resemble the mass of my fellow creatures.

As to the time and mode of my death, I have long wished to die in harness, and have envied those among my companions who have done so. If a man does so after a long course of honest work, that in my view is complete euthanasia. The drawback of such a death is the shock to the survivors; and the gravity of that depends on circumstances. In my own case there has for a long time been only one person whose life would be seriously and permanently affected by my departure, and she is now well stricken in years. Others doubtless would have emotions of kindness and regret.

Poor Pope will grieve a month, and Gay  
A week, and Arbuthnot a day.

The waters would rapidly close over my head, and leave not a wrinkle behind. Next best to dying in the full tide of activity, is death coming speedily and painlessly after that tide has ebbed; and that also is euthanasia, which might have been mine if I had not awoke from my deep drowsiness of a few weeks ago. For myself only I wished it: but I have recognized the right of others to keep me alive, and accept the lot that awaits me with patience, and willingly enjoy the many pleasant things that the world yet contains; among which is conspicuous the love and kindness of those nearest to me.

What I do very earnestly and constantly wish is that my life may not be prolonged after I have lost control over my thoughts or of my bodily functions. I have known many such cases, and they have seemed to me objects for the deepest commiseration, for whom immediate death was to be earnestly desired. Also I shrink from pain. And yet I know that if my life is even moderately prolonged, it is certain to be attended by great pain, and probably by loss of faculties.

You see I do not share the sentiments of Sophocles in his most pathetic mood, or of Job in his mood of greatest bitterness—*τὸ μὴ φῦναι*, &c. On the contrary, I believe that for nearly all terrestrial beings who universally cling to life, it contains much more enjoyment than pain, as it most certainly has for myself, and I acknowledge thankfully that, present infirmities notwithstanding, the good things of it are for me well in excess over the evil or unpleasant things. My outlook is only the common-sense of a rational being who looks before as well as after. The end must come, and come soon. My work is done, and I do not wish it postponed for that cause. I do wish it to come before that stage which, as my experience tells me, awaits all who long outlive their strength: pain and helplessness which cause dire distress to the man himself and to all who care for him.

If you say that the dread of these things is cowardice, I am not sure that I can repel the charge. But it seems to me not unreasonable, nor other than human, to desire that death, of which I am not afraid, may come before the setting in of long racking pains and humiliating imbecilities, of which I am afraid. And, after all, it is but an attitude of mind. I cannot lengthen my life, and I am not willing, probably not able, to shorten it.

Thus far as regards my own feelings on the personal and domestic side. What you say about public affairs is flattering, but I think delusive. When a man is so weakened that he holds aloof from public controversy, because he has not the stamina necessary for renewing and sustaining conflict against assailants, he is virtually without influence in public affairs; and though it is true that all private groups of sympathizers lend support and comfort to one another, to say more than that of me is exaggeration. I agree that to court death by reason of disgust with the action of one's fellow countrymen is a weak and blame-worthy act of impatience, and, if prompted by the desire of escaping conflict which others are left to endure, may

be stigmatized as cowardice. One thinks of Prévost Paradol who, within a very short time of Louis Napoleon's overthrow, killed himself in despair at the ascendancy of priests and soldiers, which he thought to be permanently established. Whereas there is the conflict still vigorously waged in France, and by no means without hope for the side of reason and liberty; as I hope and believe will occur in England, though hardly till our insane fit of arrogance has met with its natural check in some shock or other. But Paradol's case is not mine, for I am not courting death. If mortification at seeing lower ideals of national welfare supplant higher ones, and fear of impending calamities from that cause, should concur with other things to reconcile one to quitting the world a little sooner instead of a little later, there is not much to be ashamed of. As long as I am here, and as long as I retain my health of mind, I shall use such tiny atoms of power as I may possess for the promotion of the public welfare, according to the tenets which I embraced in the vigour of manhood, and which all my subsequent experience and reflection have tended to confirm.

Now let me thank you for your sympathetic, intelligent, and affectionate appeal, and assure you that, whether living or dying, or wishing to live or die, I hope to demean myself in such fashion that my family shall have no cause to blush for me.

Did you ever read Mat Arnold's thoughts in Westminster Abbey? I am not to be named in the same week with Arthur Stanley; but the verses which I quote here have always appealed to me with singular force and directness. He has been referring to Stanley's noble character and work, and then says:—

What could he better wish than then to die

And wait the issue lying underground?

Why should he pray to range

Down the long age of truth that ripens slow,

And break his heart with all the baffling change

And all the tedious tossing to and fro?



In the next stanza Arnold indicates the points of reaction, of which he was witnessing the early shoots, as we witness the mid-growth, and your generation will witness the full efflorescence (a military despotism) unless the shock comes.

Other letters breathe a similar feeling about the beauty of death in old age, and the contrasted tragedy of a premature cutting off of youth and vigour.

TO SIR EDWARD FRY.

*July 21, 1903.*

. . . And the gallant old Pope has closed his long eventful life at last: and the head-liners proclaim 'A painless end,' when the poor old man has been tossing to and fro between death and life for many weeks, with all the harpies and ghouls of the news-mongery eager to snatch every detail of his struggles. He has lived a noble life, which one is sorry to see attended by such ignoble crowds at its close. What a comfort to be obscure and die in peace!

TO C.

15 Bruton Street, W., *April 23, 1904.*

You will have heard before now of — —'s premature death. . . . She had all the preliminaries of a peaceful, useful, happy life before her. And then just on the threshold she is struck down, and all the thought, care, and love that have been given without stint to her nurture are thrown away, so far as any fruit in her is concerned.

One feels tempted for a moment in these cases to break out, as Milton does over the death of his college friend, at the waste of effort in the world.

Were it not better done as others use,  
To sport with Amaryllis in the shade  
Or with the tangles of Neaera's hair.

For the fair guerdon which he hopes to find,  
Comes the dark fury with abhorred shears  
And slits the thin-spun life.

It is possible that you may have had a passing shadow of such thoughts lately, on the premature death of your daughter A., and that of B., who had done little more than display a charming girlhood and enter into the dawn of a charming womanhood. Not much reflection is needed to supply the corrective, as Milton himself does in his robust fashion, though wrapped in the imagery of his fancy. But all the reflection in the world cannot prevent the sharp pain of the blow that shatters hopes by which many labours and anxieties have been cheered for many years. Nor would one wish to prevent it, nor to do other than leave it to the course of transmutation into tender memories by the gentle hand of time.

The death of one<sup>1</sup> who has lived out a long and active life affects one very differently. . . . Certainly the parting moment is one of great gravity, and is attended with pain, however familiarized the idea of death may have become owing to its repeated approaches to one side or the other. But when two men have been so much and so long separated in actual life as we have been, that takes away from the acuteness of pain which those feel who are kept in touch by constant habit as well as affection.

The final parting from one whose life and my own have run alongside for more than eighty years does indeed open a flood of recollections extending from earliest perceptions until now; and it is a very solemn feeling to find oneself, the sole survivor of a large family that held together for more than a quarter of my life, still alive, but hardly able to do any of the work of the world, and destined to pass very soon, like the others, behind the veil.

TO MR. J. LLOYD.

Banwell Abbey, *September 26, 1904.*

I do still see the light of the sun, but the life I lead does not correspond to the flattering terms which you bestow

<sup>1</sup> Referring to the recent death of his brother, Edmund.

upon it. It is a very inert and useless one; half the twenty-four hours engaged in sleeping, and the rest in feeding, strolling about, and lazily reading books which are printed in type and on paper good enough to suit very weak eyes, and which contain matter superficial enough to suit equally weak brains. To myself I appear to be a mere lumberer of the ground; but there are those (especially one, who attracted me more than sixty, and became my wife more than fifty-six years, ago) to whom the prolongation of my life appears a desirable thing. Moreover, notwithstanding failure of hearing, sight, and strength, both of muscle and brain, I still find that life offers more pleasures than pains, and so am content to live on: though when the end comes I shall be heartily content to meet it.

Thank you for kind words, and for the cutting which shows that your unselfish efforts to promote public welfare have met with the recognition which they deserve at the hands of your neighbours. You are still quite young enough for reasonable hope that there may yet be many years of useful work for you to do. As I think, there is no more solid basis of happiness for a man than the consciousness of having done with all his might the work that has come to his hand; and no more honourable position for such an one, be he of high rank or low, or of great wealth or small, than to live and die among his neighbours, attended by the respect and the authority which his antecedent life attracts. So may it be with you.

We are occupying for a few weeks a house in a charming part of the world; the western end of Mendip, in my own native and beloved Somersetshire; not that part of it where I was born and spent much of my childhood and young-manhood; but among hills visible from that part. It is always a pleasant place of retreat for me. We intend returning to London in a few days' time, and there fixing ourselves for some months. But every year I become more unsociable, owing to deafness and other bodily shortcomings; so I do not see many people, wherever I am. The power

which I retain more than others is leg power, which carries me to the top of Mendip and down again. And just now I am reminded that it is time to start for a walk with a little dog, nearly as infirm as myself, who is my constant companion when I take my walks abroad. All good go with you.

From your sincere friend,

HOBHOUSE.

I return cutting, which may be useful to send to some one else. Such things are apt to get exhausted, so experience teaches<sup>1</sup>.

Meanwhile his intense enjoyment of a country life remained an inexhaustible source of happiness. He was one of those men who rapidly establish points of contact with their surroundings; the antiquarian interests of the neighbourhood, its botanical possibilities, or, in the case of Somersetshire, its early associations, all meant much to him and were a frequent theme of conversation and correspondence, particularly in his later years. His powers of walking continued, and he would roam over Mendip in the summer or a spur of the Chilterns in the spring with a dog friend at his heels, establishing grand-paternal relations with a tribe of small children in every neighbourhood where he stayed for long.

TO REV. J. B. MEDLEY.

. . . I fear we shall never see Charlton again, enjoyable as the place is, and kind as are the neighbours, and pleasant

<sup>1</sup> By the side of these letters the following rendering of the Emperor Hadrian's address to the parting soul, which occurs among other jottings in one of his notebooks, may find a place :—

Little, lively, kindly soul,  
Comrade of my flesh, and guest,  
Wilt thou go? and to what goal?  
Pallid, shivering, undrest,  
And leave unsaid thy wonted jest.

as are all the memories and images connected with it. Lady Hobhouse has had a full share of energy in her life, but Time is now 'laying his iron hand' upon her, and she finds that a house like Charlton, which cries aloud for others to share its amenities, wants for its due use inmates, and especially young ones, more than her strength suffices for. As for me, my social energies have been sapped away this longful while.

I think we shall fall back on the Manor House at Banwell.... It is a couple of sizes or so smaller, and in that respect more fitting. And the factors of civilization, ecclesiastical, civil, and commercial; the church, the vicarage, the police, the gas, the butcher, the baker, the candlestick-maker, and the rest of it; are so close that we can almost throw a casting-net over them. Our culinary department highly approves of having to take no thought for the morrow, and being able to get an additional beefsteak at an hour's notice, or to scold an erring butcher or fishmonger before the sun has gone down upon justly excited wrath.

TO MRS. BARNETT.

Sandhurst Lodge, *June 29, 1904.*

. . . If anything could dispose one more than usual to desire fresh air and plant-life for our fellow townspeople, it is our present environment. We are feasting our eyes on verdure and innumerable flowers, set in an outer framework of fir woods and breezy heaths; soothing our ears by the whispers of the wind in the delicate foliage of the pines; and taking refreshment through our nostrils in every breath of air that comes across the broom and the gorse and the heather, or the meadows whose grass is being turned into hay by gangs of biped workers, and into milk, butter, cheese, and beef by quadrupeds. From mid-May to mid-June I have always reckoned the primest of the prime of the year, and from mid-April to mid-July the secondary prime. During my working years I always used to yearn for the open country in the Spring and early Summer, and to fret



at the custom which crowds us into cities when Nature's beauty is at its best, in order that we may kill something in Winter or Autumn. But I got very little of my desire till now, when, old and inert as I am, I find that the enjoyment of life and growth in a renewed world is the keenest that can meet the senses.

This was the last of his summers. August and September were passed tranquilly as usual in the pretty Somerset village under the shadow of Mendip; but he had no strength for another winter, and a brief illness brought the end swiftly and with little pain. He died on December 6, as he desired, with faculties unimpaired. Lady Hobhouse lived not quite five months longer. They had been married fifty-six years.

Arthur Hobhouse lived and died unknown to the greater public. His reputation stood high only with those who were well qualified to judge him. To others he was scarcely even a name. But he has perhaps left a deeper mark on his generation than many a figure who has made a braver show upon its stage. Measured by actual achievements, an insufficient test, his influence could not be rated low. To have laid the foundations of a rational method of dealing with charitable endowments, to have taken a prominent part in forwarding what was perhaps the greatest legal revolution of the last century—the Acts which gave married women the control of their own property and earnings, were no small achievements. His five years in India gave him a place among those who have built up so much that is admirable in our dealings with that great dependency, and lent him weight in opposing the return to lower ideals of statesmanship.

Twenty years of judicial work in the two supreme courts of the Empire, devoted always to the rational and human interpretation of the law, could not pass without leaving a real and beneficent effect upon its complex mass of traditions and enactments. Side by side with this arduous work, he found time year by year for the furtherance of many movements—London government, land reform, and even the liberation of Sunday from the trammels of the Judaic law. Finally, through the later years of his life, the whole weight of his personal influence, backed by all the authority of long experience, high office, and proved capacity, was set to stem the current of reaction towards a debased ideal of national politics, and though his public interventions were few, his resolute attitude was a constant source of encouragement to those actively engaged in a fight which for a while seemed hopeless. With those who knew him best a deeper influence survives, the example of a man who through a long life put the public service above personal ambition, who found in work its own reward, and did what came to him, small or great, with equal thoroughness because it was work and had to be done.

There is a distinction acutely drawn by Plato between the art of doing a thing and the art of getting paid for it, and there is a corresponding distinction between two types of able men. There is a class of men of whom the world hears much, who have learnt the second art to perfection—to such perfection that they reap the reward not only of what they do themselves, but often of what others do as well. There are others who put the work first, and take the payment as it comes. For them, honest

work, careful thought, public service, the redress of wrongs, the teaching of truth, has a fatal fascination. They cannot escape it even if they would, and are forced by it often into the sacrifice of a career. They are, as Arthur Hobhouse himself once put it, with the dry humour and self-depreciatory tone which were parts of him, 'beasts of burden'; in the more appreciative phrase of the poet, they are 'helpers and friends of mankind' whose 'is the praise, if mankind hath not as yet in its march fainted and fallen and died.' The world, far from thanking them, thinks them weaklings who cannot fight for their own hand, but in reality it is the greatest mark of their strength that they pass over this accusation with contempt. They do not fight well for their own hand, because they regard such things as a hindrance to the proper business of life, but on public matters they err, if at all, in the direction of being too strong. They are not pliable, and so make uncomfortable members of easy-going boards. Success of a kind often comes to them as a sort of secondary consequence. Sheer ability pushes them into it, in spite of the fatal tendency to sympathize with lost causes and tell inconvenient truths. Of this class was Arthur Hobhouse. With qualifications for judicial and administrative work inferior to none among his contemporaries, he could not avoid a measure of personal success. But of the art of success he knew nothing. Indeed, he missed that first and greatest qualification, of serene belief in his own merits, in which the prosperous man of the world finds so much gratification and support. He judged himself severely, and applied the somewhat sombre view of things which went with a certain lack

of physical buoyancy in his constitution with special rigour to his own position and performances. Here again we touch another fatal flaw in those who value their performances not as a means of self-advancement but as contributions to the world's work. The skilled self-advertiser is so accustomed to make much out of little that a very modest effort grows in his hands into a great achievement, and since to do his business well he must learn to deceive himself, as well as the public, he soon adds to external plaudits all the happiness of perfect inward satisfaction with his own merits. Listen to his conversation and you will recognize if you are just that he is puffing his wares quite as much to impress himself as to gain anything from you. Meanwhile the humble beast of burden, judging his performance by the standard of perfection, knows that all he can say is that he has done his best and is internally convinced that there was in the range of possibilities a better way which perhaps a better man would have discovered. He depreciates his doings not from a mannerism, nor because he regards humility in the abstract as a virtue, but because his mind is constantly set towards great and high interests of human welfare, and his contribution to them always seems small in comparison with his wishes.

Such a man is generally of extreme simplicity in his personal habits and his modes of thought and speech, for he does not demand much of life. He is slow to judge men, but when the time arrives pronounces judgement with incisive phrase and with authority. He has a courtesy of manner which we call of the old world merely because it is not of our time, and will address the peasant's wife of whom he asks his way with

precisely the same deference which he shows to the lady within his house, and in these little ways he is quite unconscious of differing from the mass of men. In personal relations he shows the same desire to serve his generation as in his public work. If his wealth grows, the balance is at the disposal of the most necessitous of the causes which he supports, or of the friends and relations whose needs he understands, but his benefactions are not mere gifts easily lavished from an overflowing purse, but carefully thought out and adjusted with his usual thoroughness to the requirements and the character of the recipient. Not money but time and thought—the worker's most treasured assets—are of the essence of his gifts. So he moves noiselessly through a world of clamour and advertisement, possessing his soul in patience and refreshing it with a quiet humour. Of such was Arthur Hobhouse. In a note-book in which he was wont to jot down occasional verses and translations and other fugitive pieces occurs an epitaph on himself which gives the character of the man and the measure of his personal ambition :—

Called on to work in many fields, he still  
Strove with his might each duty to fulfil,  
And keep unstained, of all a man may claim  
The noblest heritage, his father's name. .



# INDEX

- Afghanistan—  
 Lansdowne, Lord, on policy as to, 70-1.  
 Salisbury, Lord, policy of, as to, 68-74.  
 war with (1879), 124-34.  
 withdrawal from (1881), 138.
- Africa, South—  
 Church appeal case (1879), 203-5.  
 War of 1899—  
 clerical attitude towards, 253.  
 Hobhouse's attitude towards, 218-21, 253, 257-8.  
 press agitation for, 236.  
 women and children, Miss Hobhouse's work for, 224-8.
- Ambleside, 10-11.
- Antrobus, Mr., 185.
- Aosta, 16-17.
- Arbuthnot, Sir A., 77.
- Argyll, Duke of, 41, 128, 188.
- Arnold, Dr. F. S., cited, 228.  
 — Matthew, quoted, 264.
- Ashbourne, Lord, 200, 214.
- Balfour, Lady Betty, cited, 72 *nm.*, 73.
- Barnett, Canon, letters to, 224, 234-5.  
 — Mrs., letter to, 269.
- Bayley, Sir Edward, 77, 79.
- Beachcroft, Mr., 173.
- Beaconsfield, Earl of, on the Afghan campaign, 127-8; party names employed by, 244; otherwise mentioned, 66, 115, 127, 128.
- Beal, James, 122, 159, 162.
- Benson, Dr., 35.
- Bessborough, Lord, 44.
- Billings, Mr., 142.
- Blackburn, Lord, 200.
- Blisset, George, 11.
- Bowen, Lord, 48, 139.
- Bradford, Sir Edward, 112.
- Bradlaugh, C., letter to, 249-50.
- Bramwell, Lord, 200.
- Bryce, J., estimate of Hobhouse by, 52-3; Parochial Charities Bill of, 53, 170; otherwise mentioned, 139.
- Buckhurst, Lord, 41.
- Burdett, Sir Francis, 243.
- Burne-Jones, Sir E., 115.
- Burns, John, 221.
- Burt, Thomas, 170.
- Butt, Isaac, 154.
- Buxton, Edward North, account by, of Epping Forest arbitration cases, &c., 194-202.  
 — Francis, 139.
- Cairns, Earl, letter from, 22; Emmanuel Hospital case, 41-4.
- Cambridge, Duke of, 37.
- Campbell-Bannerman, Sir H., 221.
- Canadian Banks case (1887), 205-6.
- Carnarvon, Lord, letter to, 38-40.
- Carrington, Lord, 139.
- Cavagnari, Sir Louis, 69, 74.
- Cavendish, Lord Frederick, 122.
- Chapman, Bishop, letter from, 22.
- Charitable Trusts Act (1853), 25.
- Charity Commission—  
 Hobhouse appointed a member of, 19.  
 origin of, 25.  
 restrictions on, 25-6.
- Chartists, 13-15, 124, 251.
- Churches, militarism of, 253.
- Clarke, Sir Andrew, 77.
- Coach travelling, 8-10.
- Cohen, Mr., 173.
- Coleridge, Lord, 59, 170, 178; letter from, 21.
- Collier, Sir Robert, *see* Monkswell.
- Compensation Bill, 234.
- Conservative Party—  
 development of, 116-7.  
 names adopted by, 244.
- Contemporary Review*—  
 London city companies, Hobhouse's article on, 170-2.  
 London County Council, Hobhouse's article on, 180-1.
- Copyhold Enfranchisement Bills, 148-9.
- Cornwallis, Lord, 104.
- Country gentlemen, duties of, 1-2.
- Country life, 268-9.
- Couch, Sir R., 66, 200, 204, 205.
- Courtney, Leonard, 44, 106.

- Cowper, Lord, 153.  
 Cranworth, Lord, 25, 34, 39.  
 Cross, Lord, 170.  
 Cull, Dr., 11.  
 Currey, Mr., 3.  
 Custody of children case, 206-8.
- Dane, Sir Louis, 70.  
 Darby, Dr. Evans, letter to, 239-41.  
 Davey, Lord, quoted—on Hobhouse at the Bar, 18-19; on the Endowed Schools Commission, 51-2; estimate of Hobhouse by, 202-3; otherwise mentioned, 139, 200, 212, 214.  
 Davidson, Dr. R., Bishop of Winchester, 153.  
 De Grey, Lord, 43.  
 De la Hooke, Mr., 184.  
 De Villiers, Sir Henry, 200.  
*Dead Hand*, Lectures published in, 27.  
*Democracy and Reaction*, 242.  
 Derby, Earl of, 170.  
 Devonshire, Duke of, letter from, 214.  
 Dicey, Professor, cited, 56.  
 Dilke, Sir Charles, 122.  
 Disraeli, *see* Beaconsfield.  
 Dreyfus case, 253.
- Eden, Sir Ashley, 68.  
 Education—  
   condition of, in endowed schools (1869), 31, 36-7.  
   rates for, 55.  
   training of teachers, proposal for, 35.  
 Egypt, Liberal policy as to (1882), 139.  
 Elections of 1880, 123.  
 Ellis, William, letter from, 33.  
 Emmanuel Hospital case, 40-4, 49.  
 Endowed Schools Act (1868), 46.  
 Endowed Schools Bill (1868), 35-6.  
 Endowed Schools Commission—  
   constitution of, 37.  
   creation of, 35.  
   Davey, Lord, on the work of, 51-2.  
   Emmanuel Hospital case, 40-4, 49.  
   Hobhouse's letters on, 38-40, 45-7.  
   report of (1872), 49.  
   Roby, Mr., on the work of, 47-51.  
 Endowments—  
   grotesque instances of, 30-1.  
   Jowett's views on, 31.  
   Mill's views on, 27-30.  
   Wood and Ellis on, 32, 33.  
 Epping Forest enclosures, 115, 139, 194-6.
- Farrer, Lord (Thomas Henry), 4, 6, 153, 189; letters to—on school days, 3; on elections of 1880, 123; from America, 146-7; on restriction of work, 173; on London County Council, 177-80; on London Borough Council Scheme, 190-3; on wages, 232; on golden wedding, 259-60.
- Farrer, Miss, *see* Hobhouse, Lady.  
 Fearon, Mr., 41.  
 Fitzgerald, Lord, 200.  
 Firth, J. F. B., 161, 162, 170, 177.  
 Forster, W. E., 35-6, 43, 54.  
 Forsyth, Sir Douglas, 111.  
 Forward policy, 66, 74-5.  
 Foxcroft, Miss, letter to, 246.  
 French invasion, attitude towards, 12-13.  
 Fry, Sir Edward, 200; letter to, 265.
- Garrett, Miss, 54 *and note*.  
 Garth, Sir R., 66.  
 Geysers, 145.  
 Gladstone, W. E., 49, 134, 243; letter from, 137.  
 Gordon, Mr., 177.  
 Grant, General, 143.  
 Granville, Lord, 127.  
 Grey, Albert (Earl Grey), 139.  
 Grosvenor, Lord Richard, 122.  
 Gurney, Russell, 56, 58.
- Hadrian, Emperor, cited, 268 *note*.  
 Haggis, Mr., 169, 177.  
 Haldane, R. B., estimate of Hobhouse by, 216.  
 Halsbury, Earl of, letter from, 215; estimate of Hobhouse by, 216; otherwise mentioned, 200, 212, 214.  
 Hannen, Lord, 139, 200, 204.  
 Harcourt, Sir William, 162, 221, 223.  
 Harrison, Charles, 185.  
 — Frederic, 127.  
 Hatherley, Lord, 38; letter from, 32.  
 Hawkins, Mr. Justice, 178.  
 Herschell, Lord, 153, 200, 214.  
 Hobhouse, Arthur, Lord—  
   *Career*—birth, 1; school days, 3; Oxford, 3-4; legal studies, 4; social work in London, 5; takes M.A. degree, 9; engagement to Miss Farrer, 12; marriage, 15; foreign travel, 16-18; success at the Bar, 15, 22, 23; illness, 19; on the Charity Commission, 19, 25; lectures on endowments,

26-7; serves on the Endowed Schools Commission, 87; paper on position of married women, 56-8; Law Member of Indian Council (1872), 59; the cotton duties, 79, 80; Specific Relief Act, 87; speech on codification of law, 89, 93; Transfer of Property Act, 94; Afghan policy, 73; life in India, 107-13; resigns (1877), 80; lecture on home relations with India, 81-6; lectures on Indian subjects, 96-105; helps to organize Indian Famine Union, 106; joins committee of C.O.S., 115; Epping Forest Arbitration cases (1878-82), 115, 139, 194-6; memorial on Afghan campaign, 125-9; stands for Parliament (1880), 115, 121-4; views on party politics, 116-20; tries to form Anti-Aggression League, 138; London Municipal Reform League (1880), 159-65; work as member of Judicial Committee of Privy Council (1881-1901), 135, 197, 200-1; member of London School Board (1882-4), 139, 164; Ilbert Bill (1883), 105; visit to America (1883), 139-47; made a peer (1885), 147; Copyhold Enfranchisement Bills, 148-9; Land Transfer question, 149-52; on Irish government, 153-5; elected alderman (1889), 169; work on L.C.C., 169-70, 173; betterment question, 186-9; breakdown (1890), 173; resigns from L.C.C. (1892), 183; on reform of House of Lords, 155-7; Sunday Bill (1897), 152; Grahamstown Church case, 203-5; Canadian Banks case, 205-6; custody of children case, 206-8; Indian adoption case, 208-10; Indian ritual cases, 210-1; Kempton Park case, 211-3; resigns from Judicial Committee, 214; attitude towards South African war, 218-21, 225-7, 253, 257-8; on Miss Hobhouse's deportation, 228-30; golden wedding, 259; illness (1902), 260-1; at Banwell, 267-9; death, 270.

*Characteristics—*

argumentative faculty, 47.  
courage, 53, 216.  
courtesy, 216.

decision, inflexibility of, 202, 216, 246.  
economical habits, 47 *note*.  
honesty of mind and straightforwardness, 51, 53.  
industry and zeal, 52, 53, 60, 202.  
justice, love of, 61.  
kindliness, 52.  
liberalism, 216, 231, 245.  
observation, quickness of, 62.  
practicality, 61.  
religious views, 247-9, 250, 254-6.  
estimates of, 270-4; by Mr. Bryce, 52-3; by Lord Monckswell, 185; by Lord Davey, 202-3; by Lord Halsbury and Mr. Haldane, 216.  
Hobhouse, Lady (wife), engagement of, 12; in India, 108-9; on Committee of S. Africa Women and Children Distress Fund, 225; death of, 270; letters to, 13, 18, 43, 54, 124, 140-6, 153, 234; otherwise mentioned, 113, 249-50, 260, 262, 267.  
— Catherine (sister), 7, 8.  
— Sir Charles (cousin), letters to—on imperialism, 222; on death, 265.  
— Bishop Edmund (brother), 3; death of, 266 *and note*.  
— Eliza (sister), 7; letter from, 23.  
— Emily (niece), work of, for Boer women and children, 224-5; appeals to the War Office, 227; deported from Capetown, 228-30.  
— Henry (father), career of, 1; Arthur Hobhouse's letters to, 6-13, 16-18; letter to, from legal friend, 15.  
— Henry (brother), 3, 18.  
— Sir John Cam (cousin), 121, 191 *note*.  
— L. T. (nephew), letters to—on 'Tariff-Reformers,' 237-9; on *Democracy and Reaction*, 241-5.  
— Ven<sup>ble</sup> Reginald (brother), 3.  
Holyoake, G. J., letters to—on labour members and money power, 235-7; on the Rationalist Press Association, &c., 250-7.  
Holywell Street bookseller incident, 256.  
Hope, Mr., 197.  
Hutton, Sir John, letter to, 183-5.  
Huxley, Thomas, 54.  
Ilbert, Sir C. P., Bill of (1883), 105-6; letter to, 148; quoted, 88-9.  
India—  
adoption, law of, 208-10.

- India, *continued*—  
 caste, 96-7.  
 Code of Civil Procedure (1877), 87.  
 codification of the substantive law, 87-96.  
 cotton duties, 75-81.  
 education, female, 108.  
 famines, 106.  
 forward policy, 66, 74-5.  
 Gaekwar of Baroda, 83.  
 Government—  
   differences with Home Govern-  
     ment, 66.  
   interference by Home Govern-  
     ment, 81-6.  
   methods of, 98-9.  
   party politics resented in, 67.  
 Ilbert Bill (1883), 105-6.  
 infanticide, female, 103.  
 intercourse, barriers to, 100-1.  
 land tenure, 104-6.  
 Law Member of Council, position  
   and work of, 59-60.  
 Lytton's, Lord, viceroyalty of, 64-5.  
 Northbrook, Lord, viceroyalty of, 63.  
 reforms, hasty, dangers of, 62, 99.  
 ritual cases, 210-1.  
 Specific Relief Act (1877), 87.  
 suttee, 102-3.  
 Thugs, 112.  
 Transfer of Property Act (1882), 94.  
*Treatise on Hindu Law and Usage* cited,  
 199-200.  
 women, position of, 100.  
 Irish Home Rule, 153.
- James, Sir W., 39.  
 — W. H., 170.  
 — of Hereford, Lord, 200.  
 Jenkyns, Dr., 9 *and note*.  
 Jessel, Sir George, letter from, 34;  
   Epping Forest judgement, 194;  
   Hobhouse compared with, 202.  
 Jeune, Sir Francis, 200.  
 Jones, Ernest, 251.  
 Jowett, B., friendship with, 4; letters  
   from—on endowments, 31; on  
   Judicial Committee appointment,  
   135.  
 Judicial Committee of the Privy  
   Council—  
   constitution of, 197-8.  
   functions of, 197 *note*.  
   judgements of, in which Hobhouse  
     was concerned, 201, 203-11.  
   jurisdiction of, scope of, 198-9.
- Kempton Park case, 211-3.  
 Kingsdown, Lord, 135.
- Kitchener, Lord, 229.  
 Kooch Behar, Maharani of, 108.
- Labourers, position of, 233.  
 Land transfer, 149-52.  
 Lansdowne, Marquess of, on Afghan  
   policy, 70-1.  
 Law, relation of, to public opinion,  
   206-7.  
 Leo XIII, Pope, 265.  
 Liberal Party—  
   Labour Party's hostility to, 235.  
   League of Liberals against Aggres-  
     sion and Militarism, 223.  
   letters on, 221, 223.  
 Lightfoot, Bishop, 255.  
 Lindley, Lord, 200, 216.  
 Lingen, Lord, 4.  
 Lloyd, J., letter to, 266.  
 Local Government Bill (1888), 164.  
 London—  
   charities, 170.  
   City Companies, 170-3.  
   City Corporation, 161.  
   coal dues, 163, 167.  
   ground rents, 174-6.  
   municipal elections, apathy as to,  
     159-60, 178.  
   open spaces, 168.  
   police, 167.  
   rates, 167, 174-6.  
   Toryism, 44.  
   unemployed, 164.  
 London Borough Councils, Hob-  
   house's views on, 190-3.  
 — County Council—  
   betterment question, 186-9.  
   constitution of first body, 165-6,  
     168-9.  
   elections of 1892, 181.  
   Hobhouse's work on, 169-70, 173;  
     his letters on, 177-80; his article  
     on, in *Contemporary Review*, 180-1;  
     his resignation from, 183.  
   House of Lords, quarrel with, 188.  
 — Municipal Reform League (1880),  
   159-65.  
 Lonsdale, —, 6.  
 Lopes, Mr., Q.C., 48.  
 Lowe, Robert, *see* Sherbrooke.  
 Lumsden, Colonel, 70 *note*.  
 Lynching, 240.  
 Lyttelton, Lord, 37, 42.  
 Lytton, Earl of, Hobhouse's relations  
   with, 64-65; Afghan policy of,  
   71-4.
- Macaulay, Lord, 58.

- Macnaghten, Lord, 200, 205, 209, 214, 216.
- Maine, Sir Henry, Hobhouse compared with, 61; on Indian land tenure, 105; mentioned, 93-4.
- Marks, Mr., 173.
- Married women, position of, 55-8, 207.
- Martial law, 229-30.
- Massey, Mr., 95.
- Mathew, Father, 4-5.
- Mayne, John D., cited, 199-200; letter from, 215.
- Militarism, 253.
- Mill, J. S., on endowments, 27-30; on position of married women, 55; mentioned, 121.
- Milner, Sir A., 225.
- Mitter, Mr. Justice, 209.
- Monkswell, Lord (Sir R. Collier), 200, 204; estimate of Hobhouse by, 185.
- Morality and religion, 248-9.
- Morley, Lord, 187, 189.
- John, letter from, 32; Westminster candidature of, 121-3; mentioned, 221.
- Morris, Lord, 200, 214.
- Muir, Sir Wm., 68, 73, 77, 79.
- Napier, Sir Joseph, 198.
- of Magdala, Lord, 68, 77.
- Nash, Thomas, bequest of, 30.
- Newton, Lord, 70.
- Norman, Sir Henry, 68, 73, 77, 79.
- North, Sir Ford, 200, 216.
- Northbrook, Lord, Hobhouse's relations with, 63; Afghan policy of, 68; on the cotton duties, 77-8; resigns, 64, 71; mentioned, 113.
- Northcote, Sir S., 4; letter from, 19-20, 24.
- Old age, 262, 267.
- Omar Khayyam, 252.
- Onslow, Lord, 187-9.
- Ordway, Governor-General, 142.
- Pall Mall Gazette*, interview published in, on ground rents, 174-6.
- Palmer, Sir R., *see* Selborne.
- Paradol, Prevost, 264.
- Parliament—
- Commons, House of—Labour members, 235.
- Lords, House of—
- Hobhouse on reform of, 155-7.
- L.C.C. in collision with, 187-8.
- Parnell, C. S., in the *Times* case, 153-4.
- Party names, 244.
- politics, 116-20; resented in India, 67.
- Patriotism, 218-9.
- Peacock, Sir Barnes, 200, 204, 205.
- Pell, Albert, 170.
- Pelly, Sir Lewis, 71-2.
- Penzance, Lord, 56.
- Piedmont, 17.
- Pollock, Baron, 213.
- Press, influence of, 236.
- Privy Council, Judicial Committee of, *see* Judicial Committee.
- Property, popular views on, 28, 33.
- Public opinion, law in relation to, 206-7.
- Raleigh, Sir Thos., on the Privy Council, 197 *note*.
- Rationalism, 247-9, 250-1, 256.
- Rationalist Press Association, 250, 255.
- Rhodes, Cecil, 222.
- Richard, Henry, letter from, cited, 136.
- Richmond, Duke of, 37.
- Douglas, 136-7.
- Rifle corps, 12-13.
- Ripon, Marquess of, 42, 106, 165.
- Ritchie, C. T., 164.
- Roberts, General, proclamations of, in Afghan campaign, 128-34.
- Robertson, Lord, 200, 216.
- Robinson, Canon, 37, 136.
- Roby, Mr., 41; quoted on the Endowed Schools Commission, 47-51.
- Rogers, Dr. Guinness, 122.
- Rev. Wm., 4, 5.
- Romilly, Lord, letter from, 23.
- Roosevelt, President, 239.
- Rosebery, Earl of, 185, 189.
- Rothschild, Lord, 170.
- Rotton, Alderman, 170.
- Ruskin, John, 115.
- Russell, Earl, appoints Hobhouse on the Charity Commission, 19; letter from, 34.
- Sir Charles, 122-3.
- Salisbury, Marquess of (Lord Cranborne), on the Endowed Schools Commission, 37-8; Emmanuel Hospital case, 41, 42, 49; at India Office, 66; Afghan policy, 68-74; on the cotton duties, 76-9; betterment question, 183, 189; otherwise mentioned, 35, 105.
- Savoy, 17.



- Schools Enquiry Commission, 19, 26.
- Scott, Thos., 257.
- Selborne, Lord (Sir R. Palmer), 33, 200; letter from, 147.
- Shaftesbury, Earl of, 56.
- Shand, Lord, 200, 214.
- Sherbrooke, Lord (R. Lowe), 122, 170; letter from, 35.
- Sioux Indians, 143.
- Smith, Goldwin, 236.
- Sir Montague, 200.
- W. H., 122, 123.
- Speaker—*
- London, unity of, Hobhouse's articles on, 181-3.
- London municipal problems, Hobhouse's account of, 162-3; South Africa Women and Children Distress Fund, Hobhouse's letter on, 225-7.
- Spencer, Herbert, 115, 138, 223.
- Sport, 10, 270.
- Star*, Hobhouse's letter to, on London municipal problems, 165-9.
- State aid, 234.
- Stephen, Sir James Fitzjames, Hobhouse compared with, 61; codification accomplished by, 89, 92 *note*<sup>1</sup>; otherwise mentioned, 59, 95.
- Stokes, Whitley, Hobhouse's relations with, 64; codification programme of, 88; otherwise mentioned, 87, 94.
- Strachey, Sir J., 79, 89.
- Strong, Sir Henry, 200.
- Supernatural Religion*, 255.
- Symonds, A. G., letters to—on Irish policy, 154; on the Liberal Party, 221, 223; on Miss Hobhouse's deportation, 230-1.
- 'Tariff-Reformers', 237.
- Taxation, Hobhouse's report on incidence of, 174, 185.
- Temple, Bishop, 41, 42.
- Thring, Lord, letter from, 22.
- Todd, Major, 70 *note*.
- Trimmers, 246-7.
- Villard, Mr., 139, 142, 143.
- Vizianagram, Maharaja of, 61.
- Waterlow, Sir Sydney, 170.
- Watson, Lord, 200, 214.
- Way, Sir Samuel, 200.
- Westbury, Lord (Sir R. Bethell), 18, 56; letter from, 44.
- Westminster, members for, 121.
- Wickens, V. C., 39.
- Women, married, position of, 55-8, 207.
- Wordsworth, Wm., 11.

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